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THE NATIONAL ERA.

WASHINGTON, JULY 22, 1850.

For the National Era

SKETCHES OF OUR VILLAGE.

No. 1.

THE STRIFE.

BY MARTHA RUSSELL.

To follow the custom of certain wise and learned historians, reader, we ought to begin at the beginning, (we had well nigh put that in French, but, after all, old English is the best,) and speak of the geographical position of our village, define its boundaries and area, describe its geological formations, its rivers, lakes, and mountains, (for it has, at least, what we dignify by these names,) the number of its inhabitants, &c.; but we dislike details, and, besides, are not very wise ourselves, having never been quite able to comprehend why the sun, which always rises in the east as seen from our home, should, from the other side of Totoket, seem to rise in a directly opposite direction.

Moreover, the country round about us is so broken, the roads so full of crooks and turns, that, unless you have a Macgregor's aversion to plains, you will not care to seek us out. Passing by, therefore, these particulars, we will proceed to speak of the wars, foreign and civil, that have at various times caused dire commotion within our precincts—for, in this respect, our experience somewhat resembles that of Hector Homespun, the renowned tailor, in Cooper's tale of the "Red Rover."

We begin with the Pequod war, when those redoubted Captains, Mason of Connecticut and Stoughton of Massachusetts, pursued the royal Sassacus and his routed tribe along our borders, halting at the adjoining settlement of Menunkatuck, to behead two captive sachems, who nobly refused to betray their chief. The name of the spot still bears witness to the deed. It is now the site of a fashionable watering-place, but we never pace the broad piazzas of the "Sachem Head House" without recalling this scene, and it requires little aid from fancy to picture forth the spot as it was at that time—the rocky point, covered with the primeval growth of the forest; the white-crested waves of the Sound, sweeping toward the beach like a train of white-cowled friars, chanting in low, monotonous murmurs solemn masses for the souls of the waiting victims; the handful of soldiers, resting on their arms—worn, weary, emaciated by their harassing march through the wilderness—gazing with stern countenances, not untouched by admiration, on those stately stoics of the woods, as they calmly, and somewhat contemptuously, await the order which shall send them to the happy hunting-ground; while in the foreground stood the English captains—grim, gaunt, and undismayed—the very personification of Puritan courage.

We shall not stay to describe the dour resistance which our village made to the union of the New Haven colony with that of Connecticut, seeing that it is duly set forth in that famous remonstrance called the "New Haven case stated," nor dwell on the zeal with which our fathers sped the regicides on their way towards that settlement, while the King's commissioners sat sipping their "flip" with good old Governor Leets at Menunkatuck—for before us lies the days of "Seventy-Six."

Ah, reader, could you just sit down by our single side, we would have a long chat about those perilous times, and we would get the ancients of our village to tell us of the spirit with which their fathers and brothers responded to Washington's requisition for more troops; of Governor Tryon's piratical expedition to New Haven; of the bustle and confusion in our quiet farm-houses, as the echo of his cannon leaped from hill to hill; and of the stern faces and resolute tones of the matrons, as they packed their valuables, and gave their orders to their superannuated slaves, or boys too young for the camp, preparatory to seeking safety for themselves and their little ones amid the thick forests of Totoket. Then, if you are not one of those who deem the Chinese plant a nuisance, you should sip your evening beverage from one of those tiny China cups which date far back in the Colony times, and if it chance to be a summer evening, we would place the round tea-table (a part of the wedding portion of one of those same matrons) under the great hickory in front of the house—a meet spot to "remember the days of old;" for, rough and massive as it looks now, seventy-five years ago its smooth lithe stem served as a target for certain relatives of ours, when with their young comrades they exchanged, for a few brief days, the hard service of the camp for the joys of home. Some rods to the east, where the smooth, green knoll slopes down to the spring brook, stood the old farm-house. Nothing remains to mark its site, save a slight hollow in the green turf; and those brave-hearted boys sleep where they fell, with scores of their comrades, on the field of White Plains. Another generation has passed away, but the old hickory, with the bullets still in its heart, lives on, rejoicing in the sunlight and dew, blessing us with its shade in summer, and rattling down its burden of nuts every autumn, to gladden the hearts of the children.

But we forget that we have taken upon ourselves the office of veritable historian; therefore, leaving this household shade, we shall note but slightly here the great domestic feud that divided the village *a la Montague et Capulet*, somewhere about the year 1732, as to the proper method of "pitching the tunes in meeting," it being sufficient to say that, in the great society meeting called upon that occasion, it was then and there voted, by a large majority, to the great dismay of certain musical critics, that henceforth the clerk be permitted to pitch the tune after which method he pleased. Neither shall we enter into the details of the bitter ecclesiastical schism, during which several influential families seceded from the established Congregational order, and took upon themselves the forms of the Episcopal church, being duly denounced by their former brethren, as those whom Satan doth desire to sift as wheat. Though the prejudice awakened at that time still continues, in some degree, to tinge the fair current of life, we shall not stay to trace its effects at present—for our interest lies chiefly in the grand pitched-battle which occurred in the Centre school district about the beginning of the present century.

The old school-house, the first erected in the district, in which the village fathers had learned their catechism and conned over Dilworth's Spelling-Book, had become a reproach, even to consciences usually dormant to everything like comfort or convenience in school-houses, and, after years of deliberation and much canvassing, they determined to erect a new building—one which should reflect honor on themselves and the whole town.

We must depart from our original intention so far as to say, that the site of our village is a small, basin-shaped valley, scooped out from amid the hills, through the middle of which a small but beautiful stream goes loitering like a truant child. This stream (we call it river) separates the village common from the ancient graveyard, where sleep the first settlers, and, crossing the main road, almost encircles what still continues to be called the *new* graveyard, though here and there a sunken grave, with its rudely sculptured slab of red free stone, proves that many years have elapsed since the first lone dweller was laid there. A few feet to the west of the old graveyard, stood, at the time of which we speak, the old meeting-house, constructed after the most rigid Puritanic notions of architecture, without steeple or bell, and with a multitude of small square windows, which gave it more the appearance of a great warehouse than anything else. Beyond this, the open common stretches westward several rods, and here the district decided to erect their new house. Nothing like the little, low, brown house in which they had tasted the benefit of birch and Daboll, would content them now; nothing short of a two-story, two-chimneyed building, with a room on the ground floor for the common school, and the one above for an academy, to the want of which they had become suddenly conscious.

It was certainly a grand affair, superior to anything in the adjacent villages; and who shall blame them if they *did* feel certain pleasant titillations in the region of approbativeness, as they gazed upon the belfry, surmounted by its glittering vane—that belfry from which, alas! no bell was ever destined to sound.

As it was impossible to complete the building before the period arrived for the commencement of the winter school, it was decided to finish the lower room, and leave the rest until the spring vacation. This was done, and a teacher engaged, whose chief recommendation seemed to consist in the fact that he had taught several terms, was very impartial, and a rigid disciplinarian. In temper he was hasty and dogmatic, and, like too many of his class, seemed to be utterly deficient in that wisdom which seeks to win the *heart* of childhood, rather than *compel* the intellect. Ferule in hand, he drove the children into the house and out, he drove them through their lessons and recitations, and thus he had driven through several winters, until he received his wages—by far the most important part of the contract with him, for what could he have earned on the farm during the short days of winter? His impartiality was manifested by punishing, on every possible occasion, the children of those who were officially connected with the school, thereby, as he thought, showing his independence. It was not long before his severity began to give rise to complaints, which were duly resented by the party in favor of rigid discipline; and thus began the great storm which swept over the village, like the sirocco, blinding the eyes and stifling the consciences, causing many families that had hitherto sailed the sea of life together to part company, and send after each other bitter words and scowls of defiance, instead of good wishes and friendly cheer.

Ithiel Chittenden, or, to give his military title and name as commonly abbreviated by his neighbors, Leftenant Chinnin had been one of the most active in engaging the teacher; but as long as the punishment fell only on his eldest child, Molly, a beautiful, high-spirited girl of thirteen, whatever he might have thought, he held his peace, only replying to her indignant complaints and hearty wishes that the teacher might slip from the old crossing-pole into the river, and get half drowned, or slip down on the ice—anything to oblige him to leave the school, with a "Tut, tut, Molly, I dare say you are as noisy and mischievous as a flock of kingbirds."

But when Mr. Evarts laid his heavy hand upon his pets, his little twin boys, Joseph and Benjamin—when, week after week, they came home and held up to him their little, fat hands, swollen and purple, from the hard strokes of the ferule, his spirit was moved within him. He sought an interview with the teacher, and remonstrated earnestly with him on the wisdom of his undue severity. The teacher indignantly and somewhat insultingly resented what he termed his interference, and manifested his resentment and independence by punishing still more severely every little fault of his children.

Notwithstanding his warlike title, the Leftenant was a peaceably disposed man; it took a good deal to rouse and excite his combativeness; but this object once fairly attained, he manifested something like the obstinate tenacity of the bulldog. The circumstance of the interview between him and the teacher became known, and their words duly reported and distorted to suit the views of the contending parties. He explained, corrected, and remonstrated, until, out of all patience, he vowed (the Leftenant never swore) by the great John Rogers, that the teacher should quit the village, or his children the school.

The party in favor of rigid discipline held up their hands in holy horror at this manifestation of weakness. They shook their heads ominously when they spoke of little Joe and Benje, and talked dolorously of the many instances in which children, born to their parents late in life, had been ruined themselves and brought ruin on their families, all for the want of a little wholesome discipline. One or two even went so far as to question whether they were justified in permitting him to retain his commission, as his conduct might tend to produce a laxity of discipline in the militia, thereby endangering the character of that national bulwark.

The aggrieved party, on the other hand, looked upon him as little less a martyr than the worthy lecturer on Divinity, whose name he had booked, and they began to look upon the little twin-boys with something like the same interest with which they had been taught to view the nine small children of that worthy man, as represented in a wood-cut that invariably graced the pages of the New England Primer.

Those who are unacquainted with that phase of social life manifested in country villages, can have no conception of the bitterness and length to which petty quarrels can be carried. Not that the people are worse, but their facilities are better. There are few topics of foreign interest among them, few incidents occur to break the ordinary routine of life, and they are consequently much occupied with local affairs. Besides, there is a certain class, which is never lacking in any society, the members of which are far better versed in the origin, faults, foibles, weaknesses, errors, and *faux pas*, of every individual, than they are with their own; and these, set on by one or two adroit wire-pullers, would breed a quarrel in Paradise.

Moreover, the matter is still worse where the families are all connected by marriage or blood, as is the case with us, and where they still retain, to a degree perhaps beyond any other place in New England, the old English aristocracy of family, the first question with many of our older people being, to this day, whenever a stranger is spoken of: "What is his family—what is his breed?"

This, perhaps, is owing to the circumstance that eight out of ten of the fine farms in our township are owned and cultivated by the lineal descendants of their original owners, and the traveller who chances to loiter away an half hour or so, while waiting for his dinner at the village inn, among the mossy stones in the old graveyard, may hear most of the names so rudely carved there a century ago, shouted forth, again and again, by the noisy schoolboys on the adjacent common.

Be this as it may, our village was soon in a great uproar. The teacher, the original cause of contention, soon served only as a central figure in the dark picture, around which became drawn, in no neutral tints, all the poor human frailties of which each of the combatants had been guilty, and some, doubtless, of which they never had thought. And such a shadow did this picture cast, that even the atmosphere grew dark and stifling, until men could no longer see to discern the fair features of Truth and Charity, and, what was still worse, even women and young children felt its baleful influence.

There were not wanting some calm souls to preach of forbearance and peace, but their voices were scarcely heard above the din, and even the strongest influence then known in a country village, reverence for the minister, was powerless in this case. The old man who held the pastoral office at this time possessed a keen insight into human nature; he went from house to house, reasoning, exhorting, and ridiculing, neither did he fail to belabor them "with apostolic blows and thumps" from the pulpit, but, alas! he lived in the eighteenth century, and could not cast out devils.

The disciplinarians having the majority, and being determined to retain Mr. Evarts in the school, the aggrieved party seceded, and, leaving the new house, sacrificing all the dollars, cents, and mills, which they had contributed towards it, with many self-complacent reflections on the similarity of their condition with that of ancient Lot, on a similar occasion, went westward some rods, and erected a small, low building by the wayside, which they painted a bright red, perhaps to make the contrast between it and the white one they had left as wide as possible. Their opponents christened it the Revenge, and had not the name been given before it became known that they had engaged for teacher an out-and-out Episcopalian, one who kept Christmas, and actually didn't cook for Thanksgiving, nor go to meeting on that occasion, they might have called it by a more sinister name.

If this unhappy quarrel embittered the tempers and hearts of friends and neighbors, its evil effects fell not less heavily upon their children. Some of them took so completely the tone of their parents, that they would not speak to their former playmates; and others, who neither knew nor cared aught about the quarrel, were forbidden to do so by their parents. None felt this estrangement more keenly than little Molly Chinnin and Mark, the son of her father's neighbor, and, until this miserable contention, most intimate friend, Ensign Ross. An unbroken friendship had subsisted between their families from the first settlement. Their homes were separated only by a green meadow and bit of pasture, and from infancy they had shared their plays and lessons together. Together they had learned to skate and swim, together they had conquered vulgar fractions, and received due punishment on that same day, for singeing the teacher's long queue in commemoration of that event; together they had received their commissions in the militia; and, let me tell you, reader, that a commission in that body, which at the present day resembles Falstaff's ragged regiment, was at that time considered an honor not unmeet for the highest dignitaries in the land. Together they had wooed, wed, and settled down on the old homesteads, rejoiced over the birth of their children, watched their growing fondness for each other, and, as Mark grew up tall and straight as a young pine, and Molly like a graceful, beautiful green willow, there was nothing said; but as they watched them coming home from school, full of mirth and mischief, or seated over the brawling river, on the old elm-shaded pole, conning their lesson from the same wofully dog's-eared book, or disputing about the exact number of words on a certain page, the thoughts of both sometimes reverted to a beautiful knoll, midway between their dwellings, which had often been pointed out as a fine building site, with a kind of wonder as to whether it would ever be used for that purpose.

Ensign Ross had no child save Mark; and having seen the fate of several only children before his eyes, he early determined that his boy should not be spoiled by being "*babied.*" Therefore, he never took his part in any of his childish squabbles, and Mark early learned that if he got into trouble there was no use in complaining at home, for his mother was a woman of too much sense to pet and pity him in secret.

Though he heartily detested Mr. Evarts, and the feeling, to judge from the blows and thumps bestowed upon him, was duly returned, yet his father knew nothing of the matter; or, if his wife sometimes mentioned that Mark had been punished, he usually replied with—"Aye, aye, and he deserved it richly, I dare say!"

Of course, he was little inclined to sympathize with the peculiar indulgence which his old friend manifested toward his late-born twins.

"Considerin' that Molly is an only daughter, and was for a long time an only child," was his frequent remark to his wife, "I allow that they did pretty well by her. But it puts me out of all manner of patience, to see such a man as Ithiel Chinnin led by the nose by two such imps. Why, it makes no difference who he is talking to, if it was Thomas Jefferson, and one of those precious boys was to break in with a string of questions as long as the moral law, he would stop and answer them all. He not only makes a goose of himself, but spoils the boys, and I must tell him so."

He did tell him, or at least tried to; but somehow, in this case, his hints failed of their usual effect. The truth was, the Leftenant was dimly conscious of the least possible tendency towards weakness where his boys were concerned; he did not like to admit it, even to himself, and the frequent hints of his neighbor touched upon a sore spot.

Ensign Ross was by no means hard or unfeeling. He was naturally genial and jovial, but he had contrived to get certain *fixed* ideas into his head, especially upon the management of children, beyond which he never troubled himself to look. "Spare the rod, and spoil the child," was Scripture with him, and he wanted nothing better. He was naturally impatient, and could not brook interruption, especially from children; therefore he often censured as weakness that which was simply good nature in his slower and more patient neighbor. When the teacher punished the little boys so severely, without inquiring into their offence or listening to their father's explanation, he stoutly defended the former, and read the Leftenant such a lecture on his folly and weakness in all that concerned his boys, that the latter was deeply grieved and astonished. Indeed, upon reflection, he felt, himself, that he had said many things that were unwarranted, even by their long friendship; but he did not like to confess it, and contented himself with reasoning after this manner—"If he is a mind to be mad at a hasty but well-meant word, why, let him."

Chinnin, on his part, thought more deliberately—"If Jonathan Ross thinks I have turned into a natural fool, why, let him seek those that are wiser."

Thus arose a frosty atmosphere between them, chilling alike the ripened fruit of the past, and the opening hopes of the future. Had they been left to themselves, doubtless the memory of the past and a sense of their present folly would have brought back the summer to their hearts, but a rumor of their feelings got abroad, as such things always do in a country village, and the powers of scandal and schism took the matter up, going from one to the other, watching every word and look, distorting, exaggerating, and misrepresenting, until, after a few weeks, they could no longer discern, in the pictures held up to them by these meddlers, any trace of the old, friendly features. Still there were some grains of truth in all these reports; for they were by no means happy, and their state of heart and mind was one which is prone to think and say bitter things.

From the day that Leftenant Chinnin withdrew his children from school, they ceased to speak together, for the epithets "Dotard" and "Busybody," which had been angrily applied to each other on that occasion, seemed to stick in their throats, and prevent anything like a friendly utterance.

All through the remainder of the winter, the snow lay white and unbroken on the fields between the two dwellings; no path, trodden hard and smooth as ice, marked the constant intercourse of the families; no small foot-prints, deviating from the path at every few yards, gave evidence of the presence and exploring propensities of Mark and Molly. Although not absolutely forbidden to speak with each other, they seldom met now—never, indeed—save when Mark contrived to come round that way from school, and exchange a few words with her through the palings of the front fence, during which intercourse he never failed to express a very hearty wish that Mr. Evarts had been in Jericho before he ever saw our village.

Thus the strife raged through the winter months, until the raw winds and heavy thaws of March came, bringing with them a scourge which many in their secret consciences felt to be a judgment for their sins—the scarlet fever, or, as it was then called, the black canker. Something was necessary to bring them back to a sense of dependence and human brotherhood. Instead of a blessing, they had made their children a subject of contention, and God in his wisdom took many of them home to himself. The rebuke was felt. Those who had passed each other with stiff necks and averted faces, again clasped hands over the graves of their little ones and before God's altar in silence and tears.

For a time the disease seemed inevitably fatal; fear and grief sat upon every countenance; the school was closed, and parents took every precaution to guard their children from the fatal contagion. Thus it happened that Mark Ross was, for several weeks, shut off from all communication with his young associates. He chafed like a young lion at his confinement, more especially when he heard that the fever had seized upon the Leftenant's little boys, and it was thought that they must die. They had been great favorites with Mark, and if they were spoiled, as his father said, he knew that Molly and himself were in a measure answerable for it, for they had always taken their part, and sturdily defended them, right or wrong. He longed to go over and see them, but he knew that neither of his parents would consent to this. And, if the truth were known, not the less did his kind-hearted mother and impassive father long to go over and speak words of sympathy and comfort to their stricken neighbors. But submission to his will on her part, and a sense of shame and wrong done and received on his, kept them both silent. But when the news came that Molly, too, was stricken down, Mark's course was taken.

"If father has a mind to be a heathen, and worse than a heathen," he muttered, one morning as he watched the Ensign on his way to the woods, "why, well and good; but mother is a Christian, I take it. She ought to know better. I will give her her choice; either she or I go over to-day and see how Molly and the boys are."

He watched his mother with a compressed lip as she went about her household labor, then, when she had smoothed her hair and drawn her wheel to her accustomed corner, he began:

"Mother, Lydia and Tim Linsley, Thankful Harrison, Sam and David Butler, Abby Barker, and ever so many more children, have died. Do you think that Joe and Benje and Molly will all die too?"

"I don't know, Mark. Sarah Whedon says that Doctor Foot gives no hope for the little boys. Poor Hannah Chinnin, it will be a sad blow to her to lose them."

"Mother, do you remember what nice custards and jellies Mrs. Chinnin used to bring me, when I had the measles; and how she watched by me and nursed me when you was too much worn out to hold up your head?"

"Yes, Mark, I shall never forget her kindness," and the tears sprang to the mother's eyes.

"Well, then, mother," he exclaimed, rising and giving the forestick a kick, as if to settle his decision, "I think it is a burning shame that we should let them all die, and never go near them. I, for one, am going over there to-day. I am but a boy, I know, and can do nothing to help them, but the children will know that I have not forgotten them. As to the fever, if I catch it, I must. One had as good die with the fever as live in a quarrel all his days."

Mark had not miscalculated the effect of his words upon his mother. She knew something of his determined spirit, and exclaimed, hurriedly,

"No, no, Mark! For you to go there would be tempting Providence outright. If you should catch the fever, I should never forgive myself; I will go. I *will*," she continued, seeing him begin to button up his jacket. "I have wanted to go for a long time, for these quarrels, as you say, are dreadful. Only promise me that you will not attempt to see them yourself, and I will go this minute."

"I promise for to-day," replied Mark.

There was no manifestation of surprise when Esther Ross entered that house of affliction, nothing that marked a memory of the bitter estrangement between them; but a warm pressure of the hand and a grateful look from the over-wearied mother, as unable to bear any longer the last fearful struggle between life and death, she relinquished her child into the hands of her old friend, and buried her face on her husband's shoulder. As in birth, so in death, those children were not divided. Death gathered them both in the space of a few hours, and kind Esther Ross (ah, how she inwardly blessed the willfulness of her boy, that had driven her forth) smoothed their fair locks with a gentle hand, and prepared their little forms for the grave. Then she sought the room of Molly, where her presence and thoughtful care was like dew to the heart of the fear-stricken girl.

When she returned home that night, and related with a mother's eloquence the sore affliction of their neighbors, Mark wept outright, and the eyes of the Ensign glistened, as he said, "I am glad you went, Esther;" then laying his hand upon Mark's head, he added, "Remember, my boy, that little Joe and Benje are free from anger and sin and sorrow now."

Esther Ross knew that her husband passed an anxious and restless night, but she knew, also, that he was one of those who are best left to the workings of their own convictions; therefore, she did not ask him, in so many words, to attend the funeral, and bury all anger in that double grave. Mark, to her surprise, did not ask to go, and with a sad and somewhat anxious heart she went over at an early hour to give such assistance as might be needed.

The graveyard and the road which led to it were in full view from the windows of Ensign Ross's house. The Ensign had loitered about the wood-pile and yard all the morning, in a restless, undecided manner. When the people began to gather to the house of mourning, he went into his house, and paced the floor with the same restless step, occasionally joining Mark, who had stationed himself at the window.

Mark covered his eyes with his hands when he saw the old pastor issue forth from the house, followed by four boys not much larger than himself, bearing the double coffin—for he could not bear to think that the fair-haired boys lay beneath that heavy black pall.

But his father continued to watch the procession with a troubled expression of face. Onward it crept, with that slow and solemn pace, and there came a convulsive twitching about his mouth, as it filed into the graveyard, and past a little, short mound, headed by a slab of white marble, a few yards to the right of the gate—for he thought of the sad November day when he and his wife had stood by that open grave, and well did he remember whose hand had gently lowered the head of his little flaxen-haired Mabel to her last home, and who, in all times of trial and affliction, had stood by his side like a brother. He seized his hat, and, hurrying onward, soon reached the spot, and gently made his way through the crowd to the side of the grave.

When the solemn prayer of the old minister was ended, with a gesture of entreaty he took a shovel from the hand of a young man, and slowly and reverently sprinkled the first grains of dust on the coffin below. As he returned the shovel to the hand of the young man, his eye for one second met that of the bereaved father, and he felt that his motive was understood. His hand laid the last clod upon that grave—his foot was the last to turn away and join Esther, who still lingered by the white tombstone of their own child.

They pursued their way home in silence, and, when they reached that house of sorrow, as if by one impulse, they both turned and entered. As they entered the vacant sitting-room, they heard the voice of the Leftenant raised in broken expostulations in an adjoining room.

"No, no, my boy; this must not be. We have suffered sorely; and if you too should take the fever and die"——

The Leftenant could not proceed; and, as they drew near the open door, they saw their own son, Mark, standing by the bedside of Molly, holding her fevered hand closely in his, as he replied, with a quivering lip—

"They have buried up little Joe and Benje, and would not let me see them, but I *will* see Molly; I have seen her to-day, and I will see her to-morrow! I don't care for the fever. My father looks stern, and my mother sad, and nothing is as it used to be. This quarrel has made us all miserable enough!"

"Ithiel, Ithiel, the boy speaks the truth!" exclaimed Ensign Ross, stepping through the doorway, and offering his hand to his startled neighbor. "I have been harsh, unkind, unchristian—forgive me!"

The stricken father stared for a second in astonishment, then seizing the proffered hand, murmured, as he bent over to conceal his tears—

"And I, too, Jonathan—I, too, am guilty; but I have left it all there," he added, with a significant gesture towards the graveyard. "Let it be forgotten."

And so it was. After a long and weary illness, Molly recovered, and the lives of the families again floated on in the same current, until, as old, white-haired men, Leftenant Chinnin and Ensign Ross were laid with their fathers. But years before they died, the white house on the hill, which they had seen in their day dreams, became a reality, and two little boys had been born, who, by the express wish of the Ensign, were christened Joseph and Benjamin.

The storm of contention gradually subsided, and the old landmarks became visible. The land has now had rest for many years, and the traces of the old battle are scarcely discernible to any, save such curious beings as ourselves. The white school-house, minus the belfry, still stands, but the "Revenge," where we conned our earliest lessons, of which we intend to speak hereafter, has long since gone to destruction.

NOTE.—The ancients of our village invariably say *Leftenant* for Lieutenant, a habit common in their day, and Ensign is also pronounced as if written *Insign*—both with a strong emphasis on the first syllable.

A MAMMOTH PRINTING PRESS.—Messrs. Hoe & Co. of New York, are constructing a printing machine for the Sun newspaper, of that city, capable of throwing out from 15,000 to 20,000 per hour. It will be 33 feet long, with eight printing cylinders, and its cost will be near $21,000.

FROM HAYTI.—Advices from Port au Prince say, that the difficulties between the Haytien and Dominican Governments are settled by treaty.

HORACE MANN'S LETTERS

On the Extension of Slavery into California and New Mexico; and on the duty of Congress to provide the Trial by Jury for alleged Fugitive Slaves.

[Republished with Notes.]

LETTER II.

To the Editors of the Boston Atlas;

GENTLEMEN; Your semi-weekly of the 1st inst. contains a letter of the Hon. Daniel Webster, in which he has been pleased to refer to me. I wish to reply. To prevent all chance of mistakes, I quote the following passages:

"But, at the same time, nothing is more false than that such jury trial is demanded in cases of this kind by the Constitution, either in its letter or in its spirit. The Constitution declares that in all criminal prosecutions there shall be a trial by jury. The claiming of a fugitive slave is not a criminal prosecution.

"The Constitution also declares that in suits at common law the trial by jury shall be preserved; the reclaiming of a fugitive slave is not a suit at the common law; and there is no other clause or sentence in the Constitution having the least bearing on the subject.

"I have seen a publication by Mr. Horace Mann, a member of Congress from Massachusetts, in which I find this sentence. Speaking of the bill before the House, he says: 'This bill derides the trial by jury secured by the Constitution. A man may not lose his horse without a right to this trial, but he may lose his freedom. Mr. Webster speaks for the South and for slavery, not for the North and for freedom, when he abandons this right.' This personal vituperation does not annoy me, but I lament to see a public man of Massachusetts so crude and confused in his legal apprehensions, and so little acquainted with the Constitution of his country, as these opinions evince Mr Mann to be. His citation of a supposed case, as in point, if it have any analogy to the matter, would prove that, if Mr. Mann's horse stray into his neighbor's field, *he cannot lead him back without a previous trial by jury to ascertain the right.* Truly, if what Mr. Mann says of the provisions of the Constitution in this publication be a test of his accuracy in the understanding of that instrument, he would do well not to seek to protect his peculiar notions under its sanction, but to appeal at once, as others do, to that higher authority which sits enthroned above the Constitution and above the law."

I must deny this charge of "personal vituperation," and I regret that Mr. Webster, while disclaiming "annoyance" at what I said, should betray it. I believe every part of my "Letter" to be within the bounds of courteous and respectful discussion. There is nothing in it which might not pass between gentlemen, without interrupting relations of civility and friendship. Though full of regret at his novel position, and of dissent from his unwonted doctrines, yet it abounds in proofs of deference to himself. I must now, however, be permitted to add that the highest eminence becomes unenviable, when it breeds intolerance of dissent, or bars out the humblest man from a free expression of opinion.

Mr. Webster "laments to see a public man of Massachusetts so crude and confused in his legal apprehensions, and so little acquainted with the Constitution of his country, as these opinions evince Mr. Mann to be." Yet he points out no error of opinion. He specifies nothing as unsound. He presents no information, indictment, bill of particulars, or even the "common counts." Judgment and condemnation alone appear. He seems to have taken it for granted that he had only to say I was guilty, and then proceed to punish. I protest against and impugn this method of proceeding, by any man, however high, against any man, however humble.

When Mr. Webster penned his "lamentations" over my crudeness, confusion, and ignorance, he doubtless meant to deal me a mortal blow. The blow was certainly heavy; but the question still remains, *whether it hit.* Polyphemus struck hard blows, but his blindness left the objects of his passions unharmed.

But wherein do those erroneous "opinions" consist, which Mr. Webster does not deign to specify, but assumes to condemn? Fortunately, in writing the sentence which he quotes for animadversion, I followed the precise meaning of Judge Story, as laid down in his Commentaries; and in regard to the only point which is open to a question, *I took the exact words* of that great jurist He speaks of "the right of a trial by jury, in civil cases," as an existing right *before* the seventh article of amendment to the Constitution, which *preserves this right* "in suits at common law," had been adopted.—3 Comm., 628. Instead of transcribing Judge Story's words, "in civil cases," which present no distinct image to common minds, I supposed the every-day case of litigation respecting a horse, which is a "civil case;" and this difference of form is the only difference between my language and that of the learned Judge. I can wish Mr. Webster no more fitting retribution, after reposing from this ill tempered attack upon me, than to awake and find that it was Judge Story whom he had been maligning.

Does not the authority of Judge Blackstone also support my position?

"Recapture or reprisal," says he, "is another species of remedy, by the mere act of the party injured. * * * But as the public peace is a superior consideration to any one man's private property; and as, if individuals were once allowed to use private force as a remedy for private injuries, all social justice must cease, the strong would give law to the weak, and every man would revert to a state of nature; for these reasons it is provided that this natural right of recaption shall never be exerted, where such exertion must occasion strife and bodily contention, or endanger the peace of society. If, for instance, my horse is taken away, and I find him in a common, a fair, or a public inn, I may lawfully seize him to my own use; but I cannot justify breaking open a private stable, *or entering on the grounds of a third person, to take him,* should he be feloniously stolen; *but must have recourse to an action at law*"—3 *Com.*, 4-5.

But the opinion expressed by me on this point does not need the authority of any name to support it; and the illustration which I gave is not only intelligible to every sensible man, but is also apposite. I said "a man may not lose his horse [his property in a horse] without a right to this trial." Mr. Webster's comment is, that this case, "if it have any analogy to the matter," means, that if a man's horse "stray into his neighbor's field, *he cannot lead him back without a previous trial by jury to ascertain the right.*" Was ever the plain meaning of a sentence more exactly changed about, end for end? Mr. Webster may pitch summersets with his own doctrines, but he has no right to pitch them with mine. I said a man may not *lose* his horse, or his property in a horse, without a right to the trial by jury. He says I said, a man cannot *find* or *retake* a lost horse, without a previous trial! *Dulce est desipere in loco.* Or, it is pleasant to see a grave Senator play upon words; though there must be some wit to redeem it from puerility.

But the childishness of this criticism is not its worst feature. What is the great *truth* which Mr. Webster and his apologists attempt here to ridicule? It is that, while every man amongst us, in regard to any piece of property worth more than twenty dollars, of which violence or fraud may attempt to despoil him, has a right to a trial by jury, yet a man's freedom, and that of his posterity forever, may be wrested from him, as our law now stands, without such a trial. Does not this hold a man's freedom to be of less value than twenty dollars? If two adverse claimants contest title to an alleged slave, whose market value is more than this sum, each is entitled to a jury to try the fact of ownership. But if the alleged slave declares here, in Massachusetts, that he owns himself, he is debarred from this right. And this truth, or a common illustration of it, Mr. Webster and his apologists think a suitable topic for sneers or pleasantry! A foreign proverb says, that for a man to kill his mother *is not in good taste.* I trust the moral and religious people of Massachusetts have too much *good taste* to relish jokes on such a theme.

MR. BUTLER'S BILL, OR KIDNAPPING MADE EASY.

I said that Mr. Butler's bill "derides" the trial by jury. By that bill every commissioner and clerk of a United States court, every marshal and collector of the customs, and the seventeen thousand postmasters of the United States, are severally invested with jurisdiction and authority in all parts of the United States, to deliver any man, woman, or child in the United States, into custody, as a slave, on the strength of an *ex parte* affidavit, made anywhere in the United States. This affidavit may have been made a thousand miles off, by no one knows whom, and certified to by a person who never saw or heard of the individual named in it. A forged affidavit, or a fictitious affidavit would often answer the purpose as well, for how difficult, and in many cases, how impossible, to prove its spuriousness. Did oppression ever before conceive such a tribunal, so countless in numbers, so ample in jurisdiction, so formidable in power? Had a bill similar to this been proposed in the British Parliament, from 1763 to 1776, what would our Fathers have said of it? Yet this bill, with some kindred amendments, heightening its features of atrocity, Mr. Webster promised "to support, with all its provisions, to the fullest extent."

What aggravates the wrong, is, that the cruelties of the measure would fall upon the poor, the helpless, the ignorant, the unfriended. The bill would have been far less disgraceful, had its provisions borne upon the men who should pass it; because, in such case, there would have been a touch of equality. Now, if this bill does not "*deride*" all guaranties for the protection of human liberty, it is only because my word of reprobation is too weak. It is only because one needs "to tear a leaf from the curse-book of Pandemonium" in order to describe it by fitting epithets.

Another remarkable feature of Mr. Butler's bill, is, that it provides no penalty whatever for any one who shall abuse, or fraudulently use the dangerous authority which it gives. It furnishes endless temptations and facilities for committing wrong; it imposes no restraints; it warns by no threats of retribution.

Mr. Webster calls me to account for some unspecified erroneous "opinion," expressed in relation to this bill. Can any opinion be so false to the Constitution, as this bill to humanity? I deprecate error of all sorts; but hold it to be more venial to err in judgment than in heart.

I said that in promising to support Mr. Butler's bill, "with all its provisions to the fullest extent," Mr. Webster "abandoned" the right to a trial by jury. I spoke of him as a Senator, as one who, with his co-legislators, has full right and power under the Constitution, to secure this form of trial to the alleged slave, or to a known freeman seized as a slave. Mr. Seward's bill, providing for the trial by jury, in such cases, was before him. He took no notice of it. He passed by "on the other side," while he bestowed his best encomium on Mr. Butler's bill, by promising to support it. Was not this an "abandonment," under all the synonymes given in the dictionary?

HIGHER POWERS, AND LOWER.

Mr. Webster advises me, in a certain contingency, "to appeal to that higher authority which sits enthroned above the Constitution and above the law." I take no exception to this counsel, because of its officiousness, but would thank him for it. My ideas of duty require me to seek anxiously for the true interpretation of the Constitution, and then to abide by it, unswayed by hopes or fears. If the Constitution requires me to do anything which my sense of duty forbids, I shall save my conscience by resigning my office. I am free, however, to say, that if, in the discharge of my political duties, I should transfer my allegiance to any other power, I should adopt Mr. Webster's advice, and go to the power "which sits enthroned above," rather than to descend to that opposite realm, whence the bill he so cordially promised to support, must have emerged.

I wish, however, to remark, that though I acknowledge the Constitution to be my guide while under oath to support it, yet I do not relish any fling either at the powers above us, or at those who reverence them. I hold it be not only proper, but proof of sound moral and religious feeling, to look to the perfect law of God for light to enable us more justly to interpret the imperfect laws of man. Especially, when we are proposing to make or amend a law, ought we to take our gauge of purpose and of action from the highest standard.

Nay, that Solomon of the law, thought it not improper to say: "The inferior law must give place to the superior; man's laws to God's laws."—*Maxims*, pp. 6—7.

"The law of Nature," says Blackstone, "being coeval with mankind, and dictated by God himself, is, of course, superior in obligation to any other. It is binding all over the globe; in all countries, at all times. No human laws have any validity, if contrary to this; and such of them as are valid, derive all their force and all their authority, mediately or immediately from this original."—1 *Com.*, 41.

Fortescue, the Chancellor of Henry VI, in his *de Laudibus Legum Angliæ*, cap. 42, has the following passage, the consideration of which, in requital for Mr. Webster's advice to me, I respectfully commend to him:

"That must necessarily be adjudged a cruel law, which augments slavery, and diminishes Liberty. For Human Nature implores without ceasing for Liberty. Slavery is introduced by man, and through his vice. But Liberty is the gift of God to man. Wherefore, when torn from a man, it ever yearns to return; and it is the same with everything when deprived of its natural Liberty. On this account, that man is to be adjudged cruel, who does not favor Liberty. By these considerations the Laws of England, in every case, give favor to Liberty."—*Cap.* 42.

CONSTITUTIONAL PROVISIONS FOR TRIAL BY JURY, WITH HISTORICAL REFERENCES.

I. *Where Congress has power to provide for such trial.*

II. *Where it is the duty of Congress to do so.*

Having defended my own propositions, I shall now take the liberty to examine some of Mr. Webster's.

He says "the Constitution declares that in all criminal prosecutions, there shall be a trial by jury;" and that, "in suits at common law the trial by jury shall be preserved." He then adds, "there is no other clause or sentence in the Constitution having the least bearing upon the subject." Mark his words: "There is no other clause or sentence in the Constitution, *having the least bearing on the subject.*" This I deny.

Here Mr. Webster virtually declares that, but for the above-named two provisions, the right of the trial by jury would not have been secured to us by the Constitution in any case. Of course, Congress would have been under no obligation, nor would it have had any power, to provide by law for such trials.

Were I to say that this assertion borders on the incredible, one might well ask, which side of the line does it lie?

The provision for a trial by jury, *in criminal prosecutions*, is in the third clause of the second section of the third article, and is repeated, and somewhat enlarged, in the fifth and sixth articles of amendment.

But the provision for trial by jury, *in suits at common law*, is in the seventh article of amendment; and neither this provision, nor any semblance of it, is to be found, in express words, in any part of the Constitution as it came from the hands of its framers, and was adopted by the States.

According to Mr. Webster, then, Congress were under no obligation, and had no power, to make a law providing for trial by jury, *except in criminal prosecutions*, until *after* the seventh article of amendment had been ratified; for if they had any such power, or were under any such obligation, it must be by virtue of some clause or sentence in the Constitution, *having a "bearing upon the subject."*

Now, the first session of Congress commenced March 4th, 1789, but this seventh article of amendment was not ratified, and did not become a part of the Constitution, according to Hickey, (Hickey's Con., p. 36,) until December 15, 1791.

Until this time, therefore, according to Mr. Webster, the Constitution had secured no right to a trial by jury, except in the case of *criminal prosecutions;* because, until this time, there was no clause or sentence in it, "having the least bearing on the subject" of jury trials in civil cases.

Yet, on the 24th of September, 1789, *and more than two years previous to the adoption of the seventh amendment*, (by which alone, according to Mr. Webster, they had any power to act in the premises,) Congress did pass the judiciary act; by the ninth, twelfth, and thirteenth sections of which it is provided, that the trial of issues in fact, in the District Courts, in the Circuit Courts, and in the Supreme Court, shall, with certain exceptions, be by jury.

The act also empowers the Courts to grant new trials "for reasons for which new trials have usually been granted in the courts of law." In what courts of law? Did it not mean the Courts in Westminster Hall, and those in this country formed after that ancestral model? And does this show beyond question or cavil, that the principle of the jury trial, *in civil cases*, was incorporated into the Constitution of the United States, originally; and that it was universally understood to be so by its framers, and by their contemporaries, the members of the first Congress?

From the Constitution alone, then, and not from any power above it, or outside of it, did Congress derive its power, on the 24th of September, 1789, and more than two years before the seventh amendment was adopted, to pass the Judiciary Act, and to fill it full of the fact and the doctrine of jury trials in civil cases. And if Congress, at that time, had legislated on the subject of fugitive slaves, would it not have had the same power to provide the trial by jury, to determine the question, slave or free, as it had to provide for this mode of trial in other cases?

All the State Conventions for adopting the Constitution, whose debates are preserved, and all the leading men who figured in them, held, contrary to Mr. Webster, that the third article in the Constitution, providing for courts, carried jury trials in civil cases with it. Mr. Marshall, afterwards Chief Justice Marshall, said in the Virginia Convention: "Does the word Court only mean the Judges? Does not the determination of a Jury necessarily lead to the judgment of the Court? Is there anything which gives the judges exclusive jurisdiction of matters of fact? What is the object of a jury trial? To inform the Court of the facts. When a Court has cognizance of facts, does it not follow that they can make inquiry by a jury? It is impossible to be otherwise."—3 *Elliott's Debates*, 506.

The third article in the Virginia Bill of Rights was as follows:

"In controversies respecting property, and in suits between man and man, the ancient trial by jury is preferable to any other, and ought to be held sacred."

This article being read in the Convention, Judge Marshall said *the trial by jury was as well secured by the United States Constitution, as by the Virginia bill of rights.*—*Ib.*, 524. He said this in reference to civil cases.

In the Massachusetts Convention, it was said, without a doubt being expressed from any quarter, that "the word *court* does not, either by popular or technical construction, exclude the use of a jury to try facts. When people in common language talk of a trial at the Court of Common Pleas, or the Supreme Judicial Court, do they not include all the branches and members of such courts, the jurors as well as the judges? They certainly do, whether they mention the jurors expressly or not. Our State legislators have construed the word *court* in the same way."—2 *Elliott's Debates*, 127.

Such was the doctrine maintained by the leading minds in the State Conventions; by Christopher Gore, in Massachusetts; by Judge Wilson, and Chief Justice McKean, in Pennsylvania; by Chief Justice Marshall, Judge Pendleton, and Mr. Madison, in Virginia; by Judge Iredell, in North Carolina, and many other distinguished names.

In the Virginia Convention, objection was made to the Constitution, because it did not *expressly* secure to the accused the privileges of challenging or excepting to jurors in criminal cases. But Mr. Pendleton, the President of the Convention, and for so many years, the highest judicial officer in the State, replied: "When the Constitution says that the trial shall be by jury, does it not say that every incident will go along with it?"—3 *Elliott's Debates*, 497.

So when the Constitution provided for "courts," and defined their jurisdiction, it clearly contemplated the trial by jury, in regard to all such rights of the citizen as had been usually, theretofore, tried by a jury. Congress, indeed, might fail to perform its duty; but in such case, no provisions of the Constitution, however express and peremptory, would secure the rights of the people.

It is perfectly well known to every student of the Constitution, that the only reason why that instrument did not make *express* provision for the trial by jury, in civil cases, was the difficulty of running the dividing line between the many cases that should be so tried, and the few that should not. All were agreed that ninety-nine per cent. of all civil cases should be tried by jury; but they could not agree upon the classes of cases from which the remaining one per cent. should be taken.

In this connection, it is worth while to notice the heading or preamble of the Joint Resolutions for submitting certain proposed amendments of the Constitution to the States, among which was the seventh. It is as follows:

"The Conventions of a number of the States having at the time of their adopting the Constitution expressed a desire, in order to prevent misconstruction or abuse of its powers, that further declaratory or restrictive clauses should be added; and as the extending the ground of public confidence in the Government will best insure the beneficent ends of its institution, [illegible]"

From this it appears that the first Congress only proposed to submit certain "*further declaratory and restrictive clauses,*" "to prevent misconstruction or abuse of its powers." This heading or title, of course, does not enlarge or limit the meaning of the amendments; but it shows the view of their scope and intendment which their authors held. But what is the seventh amendment but a "declaratory and restrictive clause," securing the trial by jury, in cases at common law, "where the value in controversy shall exceed twenty dollars," and abandoning it where the value is less?

The phraseology of the amendment is full of significance: "The right of trial by jury shall be preserved." Not created, but preserved. Not instituted *de novo*, but continued. How can a right be *preserved*, which does not already *exist?*

In speaking of the trial by jury, in criminal cases, Judge Story uses the same word. He says it was "preserved." In neither class of cases, civil or criminal, was it ever abandoned or lost, through the fault of the Constitution. If not always enjoyed by the citizen, it has been through the dereliction of Congress in not passing the requisite laws.

The great men who submitted this seventh amendment to the States, treated the trial by jury, in civil cases, as a then subsisting constitutional right. They passed a law, to put the practical enjoyment of this right into the hands of the people, well knowing that there is scarcely a right which we hold under the Constitution which we can beneficially possess or use, without the intervention of some law, as its channel or medium.

Suppose this seventh amendment had never been adopted, on what ground would the trial by jury, in civil cases, have rested up to the present day?

In asserting, therefore, that, besides the references he has made, there is not another "clause or sentence in the Constitution, *having the least bearing on the subject*" of jury trials, Mr. Webster is contradicted by the members of the General Convention, by the State Conventions, by the Senators and Representatives, who passed the Judiciary act, by President Washington who signed it, and by all the judges who administered that act until the seventh amendment was adopted.

II. *Where it is the duty of Congress to provide for trial by jury.*

But another of Mr. Webster's assertions is still more extraordinary. He says "nothing is more false than that such jury trial [a trial by jury for an alleged slave, or for a freeman claimed as a slave,] is demanded by the Constitution, either in its letter or in its spirit."

I make a preliminary remark upon the amazing untruth embodied in the form of this proposition.

"*Nothing is more false;*" that is, if I, or any one, had affirmed that our Constitution forbids trial by jury, in all cases, under penalty of death; or that it creates a hereditary despotism; or that it establishes the Catholic religion with the accompaniment of an inquisition for each State; or that it does all these things together; it would not be more "*false*" to the "*spirit*" of the Constitution, than to say that it demands the trial by jury, when a man who is seized as a slave, but who asserts that he is free, invokes its protection.

But this pertains to the *form* only of his assertion. I proceed to inquire whether its substance be not as indefensible as its form.

In another part of Mr. Webster's letter, he says, that he sees "no objection to the provisions of the law" of 1793. Of course, he sees no objection to Mr. Butler's bill, and its amendments; but he prefers them to Mr. Seward's. And he now says, there is nothing in the letter or in the "spirit" of the Constitution, which demands the jury trial for an alleged slave, or for a freeman captured and about to be carried away as a slave.

Feeble and humble as I am, great and formidable as he is, I join issue with him, on this momentous question, and put myself upon the country.

Our Constitution, as the present generation has always been taught, yearns towards liberty and the rights of man. The trial by jury, in the important cases of limb, life, or liberty, is essential to these rights. The two, therefore, have such close affinity for each other, as to render it highly probable, if not morally certain, that the framers of the former would make provision for the latter; that they would lay hold of it, as by a law of instinct, to carry out their beneficent purposes. The trial by jury was necessary to the vitality of the Constitution; and it would hardly be too strong an expression to say that the Constitution, as it came from the hands of its founders, necessitated the trial by jury.

The object for which the Constitution was framed, as set forth in its preamble,—namely, to "establish justice," "promote the general welfare," and "secure the blessings of liberty," to the people,—could never be accomplished without the trial by jury. The preamble is not appealed to as a source of power; but it touches, as by the finger, the objects which it contemplated; it suggests the means by which its beneficent purposes were to be fulfilled, and it indicates the rules of interpretation by which all its provisions are to be expounded.

And not only the objects for which the Constitution professes to exist, but historical facts from the time of Magna Charta, and before that time; the practice of the English and of our Colonial and Provincial Courts before the Revolution and during the Confederacy;—in fine, all analogies and tendencies of constitutional law, and whatever belongs to ideas of freedom, conspire to force the expectation upon us, that, in a matter of such vast concernment as the life-long liberty or bondage of a man and his offspring, it has *not* left us without the right of trial by jury.

The very first law "for the general good of the Colony of New Plymouth, (1623,)" was, "that all criminal acts, and also all matters of *trespasses* and DEBTS, between man and man, should be tried by the verdict of twelve honest men."

In that fearful array of crimes which the Declaration of Independence charges home upon the King of Great Britain, that sublime instrument enumerates the following as among the most flagitious: "For depriving us, in many cases, of the benefit of trial by jury," and "for protecting his

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been, or that may hereafter be, entered into by persons in the Government of the Union, intended to preclude the future application of such a condition by the people, acting through their representatives in the Congress of the United States."

Such were the opinions which Mr. Webster then expressed, and such the resolutions of the Legislature of Massachusetts, with which he agreed. Yet he now professes to wonder that anybody can see any difference between the doctrines of those speeches and resolutions, and those of his speech delivered on the 7th of March.*

6. MISSTATEMENT OF FACT, IN REGARD TO FUGITIVE SLAVES.

Mr. Webster says that, previous to writing his Newburyport letter, he made "diligent inquiry," of members of Congress from New England, to ascertain how many arrests of fugitive slaves had been made in their time; and he adds, "the result of all I can learn is this: No seizure of an alleged slave has ever been made in Maine."

Now, two such cases have happened in the State of Maine. One took place in the eastern part of the State, about 1835 or '36. The other happened at or near Thomaston, a little later. In this latter case, the fugitive came to Maine in a Thomaston vessel, whose master was afterwards demanded as a fugitive from justice. This demand gave rise to a prolonged correspondence, I think, with no less than three Governors of Maine. This correspondence was extensively circulated through the newspapers, or referred to by them, and it would seem hardly possible that Mr. Webster should not have seen it. Since the Newburyport letter was published, this misstatement of fact has been noticed in the Maine newspapers, yet no retraction is made. The misstatement is allowed to be spread over the whole country, uncorrected by its author. Mr. Webster then adds, "No seizure of an alleged fugitive slave has ever been made in Vermont." Tradition, and, as I believe, authentic history, contradict Mr. Webster here. It is said by "members of Congress" from Vermont that an alleged fugitive was carried before Judge Harrington of Vermont in 1807, and on his being asked what evidence would satisfy him that the person was a slave, he replied, "A bill of sale from Almighty God."

But even if these statements of Mr. Webster, with regard to the New England States, were all true, it would avail him nothing; for, in the eye of patriotism, it matters not where such seizures are made. I refer to this, only to show that Mr. Webster is not to be relied upon in these matters, either for the accuracy of his original positions, or for a retraction of them, when their error is pointed out by the public press. I wish not to be understood, *on this particular point*, as imputing to Mr. Webster an intentional misstatement; because he accompanied his original statement with a salvo. He confessed,—and he is entitled to the full benefit of the confession,—that his information might not be "entirely accurate," though he supposed it not to be "materially erroneous." It is "materially erroneous;" and though one error has been exposed in the Maine papers, he does not rectify it. Possibly, he does not know it.

7. FURTHER MISSTATEMENT OF FACT.

While holding Massachusetts up to reproach for "growing fervid on Pennsylvania wrongs," Mr. Webster draws succor and encouragement from the Society of Friends, and especially from the Friends of Pennsylvania. He says that they remain "of sound and disposing minds and memories;" and he contrasts their wisdom and composure with the "vehement and empty declarations, the wild and fantastic conduct of both men and women which have so long disturbed and so much disgraced the Commonwealth" of Massachusetts. He then adds, "I am misled by authority which ought not to mislead, if it be not true, that that great body approves the sentiments to which I gave utterance on the floor of the Senate." I will now show that this alleged approval by the Friends, though worthy of any price but truth, was too dearly bought.

It is well known that the Friends are divided into two great denominations. Each has its Periodical, one now in its eighth, the other in its fourth year. In the numbers published since the appearance of the Newburyport letter, both these periodicals do not "approve," but repudiate and denounce the sentiments to which Mr. Webster gave utterance "on the floor of the Senate."

The *Friend's Intelligencer* deals at length with Mr. Webster's "sentiments," on the "Fugitive Slave Bill;" on the legislation of the North for the protection of its own citizens; on his pseudo-discoveries in "physical geography;" and on the "legal construction and effect" of the Texas resolutions; and it condemns them all.

The *Friend's Review* dissents not less positively from Mr. Webster's positions; and both call him severely to account for the defamation of themselves, which his letter implies.

On his "sentiments" respecting fugitive slaves, the "*Review*" observes that they have yet to learn "that that part of his speech was approved by any member or professor of the society."

I wish I had space to quote from these able articles, but must forbear.

John G. Whittier, Esq., speaking for the Quakers of New England, gives "a peremptory denial" to Mr. Webster's statement. I quote the following paragraph from him:

"Now, we undertake to say that there is not a member of the Society of Friends, in free or slave States, who, whether acting as a magistrate or a citizen, could carry out the provisions of this most atrocious bill, without rendering himself liable to immediate expulsion from a society whose character would be disgraced, and whose discipline would be violated, by such action. It has been, in times past, the misfortune of the Society of Friends to be vilified, caricatured, and misrepresented; but we remember nothing, even in the old days of persecution, so hard to bear as the compliments of the Massachusetts Senator. Whatever his 'authority' may have been, we do not hesitate to pronounce it unqualifiedly false to the last degree."

Now what shall be thought of a cause that requires such a defence, or of the man that can make it!

There are many other points presented by Mr. Webster's speech of the 7th of March, or by what he has since said and written to defend it, which seem to me as unwarrantable in fact, and as reprehensible in principle, as any above enumerated. I shall close these notes, however, with one comment more; reserving others, though sincerely hoping never to have occasion to use them.

Among the excoriations with which Mr. Webster amused himself and his Southern new-born pro-slavery admirers, on the 7th of March last, he flayed nobody half so deeply or so complacently, as he did his old fellow-senators, Messrs. Dix of New York and Niles of Connecticut. He scored them to the living flesh, and then soothed their smarting wounds by vitriol and caustic, as though he loved them. Their agency in the Texas swindle, he made odiously conspicuous. He taunted them with heart-piercing inuendo for their compulsory retirement from public life. And then he portrayed them as occupying their enforced vacation in attempting to rouse the people to save those regions from the curse of slavery, which, but for their sins, never would have been exposed to it. He worked up the scene so graphically, that every one mocked at their contemptible plight, and at the ridiculous contrast between the swiftness of their offence, and the lameness of their expiation. The effect was dramatic. The pro-slavery part of the gallery and the floor responded with a shout of laughter. Yet devoted and long-tried friends of Mr. Webster were there, whom no darkness of blindness could prevent from seeing that his bitter sarcasm against the ex-Senators, though calculated to make the "unskilful laugh," must make the "judicious grieve." They could not fail to see that he, Mr. Webster himself, at that very moment was occupying precisely the same pro-slavery ground, which Messrs. Dix and Niles had occupied, when they brought in Texas and "re-annexed" California and New Mexico. He was exerting all his great talents to do an act of the same character which Messrs. Dix and Niles had done;—that is, to open new territory to slavery. And doubtless the first thought which arose in many a mind was the same which spontaneously arose in my own, that, should he succeed in arguing down, or laughing down the "Wilmot," as he twice scornfully called the Proviso; and should he then betake himself to penitence and prayer, and by years of effort, strive to stay back from slavery the regions he had doomed to it, he would only have elevated himself to the very "platform" on which Messrs. Dix and Niles stood *when he laughed at them.*

July 8, 1850.

* Prof. Stuart, in a pamphlet entitled "Conscience and the Constitution," pp. 78–9, steps in to defend Mr Webster's position that we are bound, by contract with Texas, to admit from her territory, "slave States to the number of four;" and he incidentally refers to and combats my views on this subject.

I respectfully submit to the reverend and learned Professor a single consideration, which I trust will convince him that I am not in error.

For argument's sake, admit the contract with Texas to be unimpeachable; although, if it be so, I see not why any one Congress may not absorb and exhaust all the power to admit new States, which the Constitution contains, by making contracts, for centuries to come, for all the new States that shall be admitted; and for all the applications for admission that shall be rejected. But, admitting the validity of the Texan contract, what does it purport? That "new States," "not exceeding four," "may be formed out of the territory thereof." Those south of 36 deg. 30 min. may be slave; that, or those, north of 36 deg. 30 min. shall be free; the whole, "not exceeding four." Here, then, is an executory and mutual contract. It is executory; because it is not to be executed at the time of making, but *in futuro*. It is mutual; because, for Texas, and for the one or more slave States, south of 36 deg. 30 min., there are to be one or more free States, north of it.

Now, the principle is so clear that I think no one will for a moment dispute it, that when an executory and mutual contract is to be executed say at four different times, each preceding act of execution must be such as to allow of the ultimate execution of the whole. Neither the first, second, nor third act of execution, must be so executed as to render the fourth impossible. Neither the first, second, nor third act must be so executed in favor of either of the parties, as to render the execution of the fourth, in favor of the other party, impossible. But if Texas can have "slave States to the number of *four*," formed in succession out of her territory, then, as the whole number to be formed is not to exceed "four," there can be *no* free State formed, under the alleged contract.

It is not within my knowledge that such an interpretation of this supposed contract was ever suggested by any Texan citizen, or by any Southern man. I suppose it to have been advanced, *first* by a Northern Senator; and seconded *first*, by a Northern Divine.

THE NATIONAL ERA.

WASHINGTON, JULY 25, 1850.

MR. MANN'S LETTERS.

The first of Mr. Mann's Letters in relation to Mr. Webster and his position has already been published in our paper. The second, addressed originally to the *Boston Atlas*, appears on our outside pages this week. Appended to it are copious notes by the author, which appear now for the first time. The Letter and Notes are able and brilliant.

MR. BENTON'S SPEECH.

We had intended to publish this week Mr. Benton's strong and severe speech in support of his amendment to the Compromise bill, respecting the boundary of New Mexico, but must lay it over till next week.

CORRESPONDENTS.

In a short time we expect to be able to yield more space to our correspondents. We have any quantity of prose and poetry, some of it excellent, the authors of which, we are sure, will pardon us for keeping them so long in waiting. But, so deep and general is the interest excited by the Slavery debates in Congress, we should be held inexcusable did we not furnish our readers with some of the ablest of the speeches delivered.

RENEWING SUBSCRIPTIONS.

We hope each old subscriber, as his subscription closes, will remember that by sending us five dollars, he may renew his own subscription, and secure two copies of the paper besides, for new subscribers.

"SKETCHES OF OUR VILLAGE."

We ask attention to the series of animated, most agreeable sketches, the first of which we publish in this week's paper. They are from the pen of MARTHA RUSSELL, already a favorite with our readers.

It will be seen, by reference to our advertisements, that persons in almost any of the States, having legal papers to be acknowledged, depositions taken, &c., in the city of Cincinnati, can have them attended to at the office of Birney & Peirce. We are confident that everything of the kind committed to them will be promptly attended to.

CONGRESS ON TUESDAY.

In the Senate, the report of the Committee of Thirteen being under consideration, several amendments were rejected, among them, one proposing to abrogate the Mexican laws in the Territories. Some discussion arose between Messrs. Yulee and Foote, the latter vindicating himself against a charge of inconsistency brought by the former.

The House refused to go into Committee of the Whole on the state of the Union, and proceeded to dispose of the business on the Speaker's table.

NEW CABINET.

D. Webster, (Mass.,) Secretary of State.
T. Corwin, (Ohio,) Secretary of the Treasury.
J. A. Pearce, (Md.,) Secretary of the Interior.
W. A. Graham, (N. C.) Secretary of the Navy.
E. Bates, (Mo.,) Secretary of War.
N. K. Hall, (N. Y.,) Postmaster General.
J. J. Crittenden, (Ky.,) Attorney General.

The nominations were sent to the Senate last Saturday, and confirmed the same day in Executive session.

Sectionally viewed, there is nothing to complain of—the President and three of his Cabinet being from the non-slaveholding States, and four from the slaveholding.

The West has a larger share than has generally fallen to her lot—furnishing three members. Three are taken from the Senate, and this we regard as unfortunate. Members of Congress ought to be ineligible to any office, during the term for which they are chosen, and for two years thereafter.

The Cabinet is an able one, and with a single exception, highly creditable to the President. It will doubtless sustain Mr. Fillmore in his adhesion to the policy of General Taylor, and his maintenance of the rights of the United States against factious opposition.

But, what shall be said of the appointment of Mr. Webster to the State Department? We had hoped that Mr. Fillmore would not encumber himself with any of the tribe of politicians to which Mr. Webster belongs—and especially that he would not interpose between that gentleman and the constituency whose will he had so flagrantly disregarded. No matter on what conditions Mr. Webster goes into the Cabinet, no matter though pledged to maintain the Executive in the vindication of the rights of New Mexico, still the odium that attaches to him, in consequence of his desertion of a great measure, deeply cherished by his own State and the whole North, will be shared to some extent by the Cabinet of which he is a member.

Meantime, we shall not prejudge the Administration; there are members of it who are true to Freedom and the Constitution, and we hope their influence will predominate. We shall soon know the policy which the President intends to pursue. An answer must be given, promptly, to Texas, respecting the intentions of the Executive. Circumstances admit of no delay. New Mexico must be protected or abandoned by the United States—and the decision must be made at once. Have we a Government strong enough to discharge its constitutional duties, and compel submission to its acts, when those acts are recognised by the Constitution? This question is in the hands of President Fillmore.

CONGRESS DURING THE WEEK.

The House last week was chiefly occupied with the consideration of the report of the Committee on Elections, against the admission of Mr. Smith as a Delegate from New Mexico and Mr. Babbitt as a Delegate from Utah. The report was sustained, and admission refused to both gentlemen. The vote was chiefly a sectional one, Mr. Gentry being the only member from a slaveholding section voting for their admission. The South carried the day by the aid of its usual auxiliaries from the North, and of two or three Northern men, who, notwithstanding their general fidelity to the interests of Freedom, could not see their way clear to act with their associates on this particular question.

We hope the worthy Delegate from New Mexico will be able in time to take his place as a representative of the State of New Mexico.

In the Senate, the chances of the Compromise bill appear to decrease every day. From the time it was first introduced until last Friday, we were under the impression that it would pass that body, and be lost in the House. Since then, we have doubted whether it could work its way through the Senate. The Southern opposition to the bill is strong, and, apparently, sincere, and Mr. Clay seems more disposed to denounce Southern members than Northern.

Last week Mr. Benton delivered a powerful speech, in which he exposed with terrible severity the effect which the pecuniary consideration to be paid to Texas, was calculated to have, and he denounced the bill as auctioneering its way through the Senate. This speech will appear in our columns next week.

Mr. Clay, last Monday, addressed the Senate till near four o'clock, in a general defence of the bill against the attacks of all its opponents. He displayed much vigor and adroitness, uttered, as he is apt to do, many lofty sentiments, drew a fearful picture of the perils of the country, and made the most fervent appeals to the moderate men of all sections to sacrifice their prejudices, their preconceived notions, themselves, upon the altar of Patriotism. Differ as we may with Mr. Clay, indignant as we often feel at his ingenuity in misrepresenting an opponent, or his overbearing demeanor towards him, we cannot but admire his boldness, his watchfulness, his readiness, his dexterity, his invincible determination, his great mental power.

In relation to the Compromise bill, it can no longer be said that its opponents are delaying action. For a long time past, they have been anxious to come to a test vote; repeatedly have they moved to lay the bill upon the table—a motion which cuts off all debate—but as often have they been prevailed upon by the entreaties of its friends, to withdraw the motion, and await further amendment and discussion. Were its friends assured of its passage, they would not hesitate to try their strength, but they evidently consider the chances against them, and desire delay, in the hope that some amendment may be agreed upon, or some circumstance turn up, of encouraging augury.

The truth is, it is now doubtful whether there has been at any time since the report of the bill, a real majority in favor of it—so that it is not improbable that for five months a minority of the Senate has occupied its time with a measure, which, could a direct vote have been taken at any moment, might have been lost.

MR. WEBSTER ONCE MORE.

Mr. Webster made another effort last week in the Senate to sustain himself and save the Compromise bill, whose prospects, like those of his own, had become anything but flattering. The opponents of the measure, confident in their strength, desired to lay it upon the table, and a motion to that effect was made by Mr. Hale. The friends of the bill, alarmed, earnestly appealed to Mr. Hale to withdraw his motion, Mr. Webster at the same time signifying his desire to address the Senate in relation to it. Grace was extended to them, and the next day (Wednesday) Mr. Webster made a strong appeal in behalf of the bill. We have no room for his speech, nor is it necessary to republish it, as in the main it is a reproduction of the leading ideas of his great speech delivered in the early part of the discussion.

He assumed that the policy recommended by the late President and that embodied in the Compromise bill were not opposite or antagonistic to each other; but he did not prove his position. How could he? The former policy contemplates the admission of California alone, not making it depend upon any other measure. The latter connects the question of her admission with, and makes it dependent upon, other questions. The former, by abstaining from any effort to establish Territorial Governments, seeks to avoid the controversy concerning Slavery, to *waive* the Wilmot Proviso, and would demand no sacrifice of opinion on the part of the North or South. The latter boldly meets the controversy, decides it in favor of the South, by sacrificing the Wilmot Proviso in the establishment of Territorial Governments without it. The former virtually affirms, what the latter denies, the expediency of admitting New Mexico as a State, so soon as her Representatives and Senators can reach here. The former contemplates the settlement of the question of boundary between Texas and New Mexico by the Supreme Court; the latter, by an act of Congress paying Texas some ten millions of dollars for her claim.

On every point, whether it respects California, New Mexico, or the Texas boundary question, the two plans are "antagonistic" to each other—and Mr. Webster, in supporting the Compromise of Mr. Clay, opposes the plan of General Taylor.

Mr. Webster says, in the beginning of his speech:

"I have been careless whether the things necessary to be done were done in one bill or in separate bills, *except that, as a matter of expediency, it has been my opinion from the beginning that it would have been better to have proceeded measure by measure.* That was a matter of judgment upon the expediency of the case. I was of this Committee of Thirteen. Circumstances called me to my own home. It seemed to be the general opinion of the Committee at that time, I thought, that it would be better to admit California, and then take up the other measures."

Why did not the Committee adhere to that opinion? What were the reasons that induced them to change their policy? At all events, we have the unqualified declaration of Mr. Webster that it *has been his opinion from the beginning that it would have been better to have proceeded measure by measure.* How does this square with his argument and avowal, soon after, in favor of the expediency of supporting the bill which conglomerates these measures?

"If we admit California, my honorable friend from Illinois will then bring in a bill for Territorial Governments for New Mexico and Utah. We must open our eyes to the state of opinion in the two Houses, respectively, and endeavor to foresee what would be the effect of such a bill. If it be a bill containing the principle of exclusion, we know it could not pass this House; if it be a bill without the principle of exclusion, we know what difficulties it would encounter elsewhere; so that we very little relieve ourselves from the embarrassing circumstances of the condition in which we are by taking up California and acting upon it alone. *I am, therefore, sir, decidedly—decidedly in favor of passing the bill in the form in which it is.*"

That is, it is his opinion that it would have been better to take up the admission of California alone, and then proceed with the other measures, one at a time—and yet, it is his opinion that by pursuing this course, we should "very little relieve ourselves from the embarrassment," so that he is "decidedly—decidedly in favor" of acting upon all the measures together, not separately!

Without comment on this apparent confusion of ideas, we may ask, why is not Mr. Webster found side by side with Mr. Benton, in pursuing the manly, reasonable, ordinary mode of legislation; that of acting and deciding upon each great measure, by itself, in reference to its own merits? Why has he not from the beginning conformed his course of action to what he declares has been his opinion from the beginning—that it would have been better to proceed measure by measure, instead of attempting to dispose of all the questions in one bill? In vain we look in this speech, or in any that he has delivered, for reasons to justify or even explain this contradiction between his policy and his opinion.

Some time since, Mr. Foote, denouncing with severe indignation the action of the People of New Mexico, in the organization of a State Government, claimed that Messrs. Clay, Cass, and Webster, had announced their unwillingness to vote for the admission of the new State. Those gentlemen heard, but did not contradict him. If such was the determination of Mr. Webster then, he has changed his mind; for in his speech last Wednesday, he made the following avowal:

"If a motion be made, as it has been announced it is intended to be made, to lay this bill upon the table, and that motion prevails, why, this measure is dead. Then there must be a resort to some other measure; and I am disposed to say, and will say, that in case of the failure of this bill I shall be in favor of a bill which will provide for three things, *namely, the admission of California with its present Constitution and boundaries, the settlement of the Texas boundary, and the admission of New Mexico as a State. Such a measure will tend to a full and final termination of the controversies which now agitate us, and relieve the country from distraction.*"

We hope he may have an opportunity of voting for such a bill; but, why, believing as he says he does, that it would have been better to have acted on all these measures separately, does he not vote to get rid of the Omnibus bill so as to prepare the way for one, which, in his judgment, "will tend to a full and final termination of the controversies which now agitate us?" The truth is, Mr. Webster's conduct is not easily explained, unless we assume that he has an insurmountable repugnance to being classed with those Northern men who love liberty too well! On all questions concerning slavery he seems to think that it is safer and more honorable to be found in the company of Daniel Dickinson and Lewis Cass, than that of John Davis and R. S. Baldwin.

Mr. Webster commented with more humor than wisdom on the incongruous nature of the opposition to the bill:

"There are those—I do not speak of course of members of Congress, and I desire to be understood as making no allusions whatever, in what I may say, to members of this House or the other—but there are those in the country who say, on the part of the South, 'by this bill the South gives up everything to the North, and we will fight it to the last;' and there are those on the part of the North who say, 'this bill gives up everything to the South, and we will fight it to the last;' and really, sir, strange as it may seem, this disposition to make battle upon this bill by persons who never agreed on anything before under the light of heaven, has created a sort of fellowship and good feeling among them. [Laughter.] One says, 'give me your hand, you are a good fellow; [renewed laughter,] you mean to go against this bill to the death, because it gives up the rights of the South; I mean to go against the bill to the death, because it gives up the rights of the North.' So they shake hands and cry out 'down with the bill,' and then unitedly raise the cry—

A day or hour of virtuous liberty
Is worth a whole eternity in bondage."

This is amusing, but it does not prove anything, except that a Compromise which satisfies the demands of no principles, must always encounter opposition from the friends of principle. Besides, the argument, with whatever force it may have, applies to the supporters of the bill. Never was a measure sustained on more opposite grounds, by men of more incongruous opinions. It covers the Wilmot Proviso with infamy; says one: it abolishes the Mexican laws prohibiting slavery, it opens the way for its introduction into the Territories. Under it, says another, the Wilmot Proviso is rendered unnecessary, for all that measure aimed at is secured in another way; the Mexican laws will continue in force, and Slavery cannot go into the Territories. The laws of physical geography expressly forbid it, says the former; they allow it, insist the latter. And what can equal the "good fellowship" which prevails among the supporters of the bill, some of whom have never agreed on anything before under the light of heaven? Daniel Webster holds sweet communion with Foote, and Henry Clay is found in loving embrace with Lewis Cass. Conservatism and Progress meet together; Protection and Free Trade kiss each other. Most happily has Mr. Hale, in some remarks made in another column, ridiculed this beautiful conjunction of contradictions.

Mr. Webster attempts to show the North that she will gain much that is substantial, and lose nothing of importance, should the bill pass. She gains, he says, the admission of California as a free State; the quieting of New Mexico, and the Texas boundary question; and the restoration of the Government to the exercise of its ordinary functions. What does all this amount to? California is already a free State, but not by the section of this bill; and if she is admitted she would be admitted on principles, as loudly professed in one section of the country as the other. The new State is added to the *Union*, not to the *North*; and her admission is a matter of right, not of favor.

As to the quieting of the New Mexican Question and the Texas boundary, that is quite as important to the South as to the North. The latter has no peculiar interest in it; and at all events, if it be a gain to the North, it is a gain purchased at the cost of ten millions of dollars, paid for a fraudulent claim, and at the cost too of a great measure of policy, sacred and all important in the judgment of the North.

Mr. Webster considers that there is no value in that measure, or "Wilmot," as he contemptuously styles it, and yet this, he says, is all the North loses by the bill.

"What they do sacrifice is exactly this, the application of the Wilmot Proviso to the Territory of New Mexico and the Territory of Utah. Now, what is the value of that sacrifice? What is the value of it in a reasonable man's estimate? The value of it depends upon its necessity. If in any reasonable man's judgment, the necessity of the application of this Proviso to New Mexico is apparent, why then there is value in it to those who hold that the further extension of slavery is to be resisted as a matter of principle. But if it be not necessary, if circumstances do not call for it, why, then there is no value in the Wilmot Proviso, and no sacrifice made in refusing to apply it, or declining to apply it. That is the question."

Mr. Webster presents no new considerations in support of his assumption that the Wilmot Proviso is unnecessary; so that it is likely Massachusetts will continue unconvinced, retaining her faith in the necessity of positive law in favor of Freedom. She will remember that Slavery has never been abolished in this country, or limited, without the enactment of positive law—that it has always gone, where it has not been prohibited; that there is no latitude, no climate, no soil, in which it has not prevailed. She will remember that the great question in controversy between Slavery and Freedom, since the time when acquisitions from Mexico were first meditated, has been this very "Wilmot," which Mr. Webster claimed as his own offspring two years ago, but now repudiates. If the North sacrifice this measure now, she sacrifices all that she has contended for, and she does so in view of the fact that the slaveholding supporters of the Compromise urge as one great reason in its behalf, that its passage will secure to them the privilege of testing the adaptation of slave labor to productive pursuits in the Territories. That is not all. Abandon the Proviso, let it be understood that the North can be compelled to give up its policy of Slavery Restriction, and where is our security against the spirit of slavery-spoliation and propagandism? If the Slaveholders can prevent the application of the Ordinance of 1787 to New Mexico and Utah, what check would then exist upon their further aggressions on Mexico; or their sinister designs upon Cuba and Hayti? Let the North stand firm, yielding assent to no measure, which, like the Compromise bill, permits Slavery to find its way into the Territories, and it will be long before slaveholding politicians will plunge the country into war for Territorial acquisitions. Let them see that every foot of soil acquired from Mexico is to be consecrated to Freedom, and they will cease to regard with a longing eye, the possessions of their neighbors: the Wilmot Proviso will prove the most effective antidote to the spirit of war and conquest.

Some Northern Senators would be glad to take their stand with Mr. Webster, but they are restrained by instructions. The People and Legislatures of their respective States have announced their will, and it is imperative. Mr. Webster does not like this. Having violated his obligations to his constituents, he would have other Senators do likewise. He has thought proper to disregard the wishes of his State, repeatedly expressed by both branches of its Legislature; he is anxious that his example should be followed. A portion of the speech was devoted to an attack upon the doctrine that Representatives and Senators are bound by the will of their constituents, fairly expressed. Says Mr. Webster:

"It has become, sir, an object of considerable importance to the history of this Government to inquire how far instructions given, *ex parte*, and under one state of circumstances, are to govern those who are to act under another state of circumstances, and not *ex parte*, but upon a hearing of the whole matter. The proposition that a member of this Government, in giving a vote to bind all the country, is to take as his instructions the will of a small part of the country, whether in his own State or elsewhere, is one that is above or below all argument.

* * * * * *

We, according to our notions and habits, think it not only allowable, but that it is the duty of a member of Congress to fulfil his instructions, given by his own people and a single district, though his vote binds the interests, the honor, the glory, and renown of twenty millions of people. As an instance of the various views taken of this subject as a question of morals, I would refer, or might refer, to what happened in the Chambers of France some years ago, perhaps while the honorable member from Michigan (Mr. Cass) was residing in Paris, but I believe shortly after his return. A gentleman who was a candidate for the Chamber of Deputies in France, promised his constituents that on a certain measure expected to come before the Chambers he would vote as they required. They required him to vote so and so, and he said he would do it. Well, he was chosen, and came to the Chamber to take his seat. But ah, it was said, not so fast! Objection was made: it was said he did not come there as a fair man; he did not come there as an impartial man, to judge of the great interests of a great country in the questions before him—he came there pledged and trammeled down; he had given up his rights and pledged his vote; he did not stand there on an equality, therefore, with the other members, who come there independent and untrammeled, and bound to exercise their individual judgment. And they expelled him on that very ground, or rather rejected him. And whoever wishes to see one of the most beautiful disquisitions on political morals and the duty of those who represent the people that I know of, since the time of Burke's speech at Bristol, will be gratified by reading Guizot's speech on that occasion. At any rate, coming there under pledges to give his vote for them, though against the majority, they held him not to be worthy to be a representative of France, and to act on questions in which the whole kingdom was concerned."

It will be observed that this is an attack, not only upon the doctrine of legislative instructions, but upon the very principle of representation. For, if legislators are to enact what laws they in their judgment may deem best, without any reference to the views of those who elected them, of what value is the right of representation? *They* rule, and not the *People*: representative government in fact ceases. We take it, that in this country, Government is of, and for, the people. The principle of self-government is recognised and sought to be secured by the Federal and State Constitutions: the assumption is, that the people understand their own interests, and the means necessary to promote them. Representatives are chosen to carry out, not to defeat these measures. The people of New York having made up their minds upon one line of policy, it is an audacious assumption that Daniel S. Dickinson has the right, as one of her Senators, to thwart their purposes. When he does so, he abuses his trust, he usurps power, he attempts to subjugate three million of people to his individual will.

Important questions are agitated during a political canvass. Parties are arrayed against each other upon them. The majority of the People elect a candidate, on the ground that he is prepared to advocate and vote for certain measures for the settlement of those questions. That he is bound to execute in these respects the will of those who elected him, we hold to be above all argument. Where they have indicated only the objects to be accomplished, without specifying the means, he is clearly left to his own discretion in the choice of the latter; and where new questions arise during the term for which he was elected, he is of course to decide for himself what policy ought to be pursued in relation to them, as no way is provided by which he can ascertain the will of his constituents concerning them. But, where the People of the District, who elected him, did so because they believed that he would support with all his ability certain great principles and measures, he is guilty of disloyalty, bad faith, practical falsehood, if he array himself against them, Guizot and Burke and the French Chamber of Deputies to the contrary notwithstanding. Of course, no honest man will assume representative obligations, unless fully persuaded of the rectitude of the measures he binds himself to execute. It speaks little for Mr. Webster's argument against the representative principle, that he is obliged to borrow his illustrations from the old, corrupt institutions of European countries. They will not recommend it in the eyes of American citizens.

Now as to Legislative instructions, binding specially upon Senators: we know not on what sound principle their obligatory force can be contested. If Senators were elected by the People, they could be bound as Representatives are now bound; but being chosen by the State Legislature, they must be held responsible to the Legislature, or they are totally exempt from responsibility. The Legislature, representing the principles and policy of the State on certain great questions, elects Senators, known to concur with it in opinion. It does so that the State may make its voice fairly heard in the Senate of the United States. Are they not bound to carry out the measures to support which they were elected? How can they get rid of the responsibility? If they oppose these measures, they violate the representative principle, and defraud the People of the State of their right: they are rebels against their sovereignty.

It will not do to assume that the People have judged the questions upon an *ex parte* hearing: the fair presumption is, that they have examined them on all sides, weighed opposing arguments, and decided deliberately and intelligently.

But, it sometimes happens that subjects of great importance arise during a Senator's term, which were not canvassed pending his election. Nobody disputes that, in the absence of instructions here, he might judge for himself. But, suppose the Legislature of his State take these subjects into consideration, and after due deliberation come to the conclusion that they should be disposed of in a certain manner. What then is the duty of a Senator? We will not say the obligation to obey instructions in this case is a perfect one, as in the former case—but, still it is an obligation. He is not elected by the People; the members of the Legislature are, and it is be presumed that, being elected while these subjects are under examination by the People, they embody the predominant sentiment. If the Senator has reason to believe that their resolves are hasty, the result of imperfect information, or that they misrepresent the People of his State, we will not say that he may not defer obedience to them till time has been given for reconsideration, in full view of all the facts of the subject. But if, after such reconsideration, they reiterate their resolves, it seems to us that the only question, is, shall the People, or one man govern? This is easily decided. He is the agent, not the principal: it is his duty to carry out the views of his principal, or, if these conflict with his own views of duty, to resign.

The Legislature of Illinois, at its session before the last, passed resolutions instructing the Senators from Illinois to vote for the Wilmot Proviso in the establishment of Territorial Governments. One of her Senators being under the impression that circumstances demanded a reconsideration of the instructions, presented reasons in favor of such a course at the last session, but the Legislature was not convinced—it maintained its ground. The result is, the Senators from Illinois, with a proper recognition of the right of the People to have their views embodied in the legislation of the country, feel themselves bound to vote as the resolutions direct.

The Legislature of Massachusetts, from year to year, has passed resolutions in favor of the restriction of Slavery by positive enactment. This year it has done the same, seeing nothing in the change of circumstances mentioned by some statesmen, or in the arguments of Mr. Webster, to convince it that its ground was untenable. It cannot be charged with hasty action—with an *ex parte* examination—with being biased by collateral considerations. Its members are fresh from the People, with whom they are in the habit of daily intercourse. In view of all these facts, shall it be said that their views shall be disregarded by one man, who is not in the habit of mixing with the People, and whose official existence has been derived from them? Are they and the People they represent, the source of power, nothing, and that man, the creature of their will, their agent for certain purposes, everything? Did they, when they elected him to be one of their representatives in the Federal Councils, expect *his* voice to be heard, while that of Massachusetts was stifled? Was it their intention that Daniel Webster should sit at the council board of the Nation, and the sovereign State of Massachusetts be excluded? In other words, that the servant should be greater than the lord?

With all that Mr. Webster says of the value of the Union, we entirely concur; and there is much truth in his animadversions upon that spirit which seeks to disparage one section of the country in the eyes of another. But, he is unjust in charging this spirit, without discrimination, upon the anti-slavery press. A few Abolition papers seem animated by a sectional feeling, but, such a feeling is more prevalent among Whig and Democratic anti-slavery journals; and the reason, we suppose, is, that they are in the habit of regarding the question of Slavery primarily as one of political power.

For ourselves, while we desire always to deal plainly and thoroughly with the subject, we would not discuss it in a sectional spirit. Towards the South, as a part of our common country, we cherish national feelings. Her People are American; her institutions (excepting slavery) are American; she has contributed her full proportion of the illustrious men of the nation; she has displayed on many occasions a jealousy of its renown, a devotion to its interests, unsurpassed in any other section. Not a word would we say to inflame prejudice against any State of the Union. We would rather do all in our power to bring the States into a closer Union—to make them understand one another better—to correct misrepresentation—to allay prejudices—to direct attention to whatever of good each contains—to do honor without partiality to the distinguished men of the whole. Especially, while freely discussing and condemning an institution of any section, would we be at pains to show that it is against a *Principle*, not a *People*, that our hostility is directed.

Still, no promptings of a liberal spirit should lead us to overlook or suppress the Truth. We would not, like Daniel Webster and Truman Smith, try to shift the responsibility of the war against Mexico, from the Slave Power, to the Democratic party. However criminal the co-operation of the Northern section of that party, and however inexcusable the acquiescence of Northern Whigs in the prosecution of that war; it is a violation of the truth of history to suppress the fact, that slaveholders, acting from motives having special regard to their own section, were its originators. Nor is Mr. Webster just or truthful, in holding the North equally censurable with the South, for the hostile demonstration on Cuba. Can he be ignorant that the social condition of that island is regarded with peculiar interest by slaveholders—that the Slavery-Extensionists of the South secretly, but ardently, long for its annexation to this country—that the measure is constantly advocated by the Cuban patriots on the ground specially that it would give increased security to the slave system of Cuba—that the revolutionary movements against it, have received their chief sanction and support in the South, meeting with no favor in the North, beyond a small class of foreigners chiefly in the cities of New York and Philadelphia? It is wrong and pernicious to attempt to relieve the real actors in these piratical movements from the responsibility that justly belongs to them.

We have glanced at some of the principal points in Mr. Webster's speech. That it has added to his reputation as a statesman, or that it has increased the strength of his position, that it has made or will make a single convert to the Compromise bill, we suppose nobody believes. It is cold in spirit, poor in thought, when we consider the affluence of the great intellect from which it emanated; vigorous only in style. Mr. Webster is in a false position; and his intellect has too clear a perception of Truth, is too strongly bound by the law of a severe logic, to put forth its mightiest energies in the work of making the worse appear the better reason.

CONSTITUTION OF THE STATE OF NEW MEXICO.

Some of the newspapers publish in full the Constitution lately adopted by the Convention of New Mexico, called for the purpose of organizing the form of a State Government. In its main features it is like the Constitution of the existing States.

It defines the limits of New Mexico according to her ancient boundaries.

Article 1st is a declaration of fundamental rights, such as are enumerated in the amendments to the Constitution of the United States.

Article 2d makes the usual distribution of the powers of Government into three departments.

Article 3d defines the Legislative Power, and the mode of its creation. A Senate and House of Representatives are constituted; Representatives not to be less than twenty-one years of age, and Senators not less than twenty-five.

Article 4th provides for an Executive, consisting of a Governor and Lieutenant Governor, to be elected by the People, and to hold office for four years.

Article 5th vests the Judicial power in one Supreme Court, and in such inferior courts as the Legislature may from time to time institute—Judges of the Supreme Court to be appointed by the Governor with the advice and consent of both Houses of the Legislature in joint ballot.

Article 6th provides for the organization of the militia of the State between the ages of eighteen and fifty years.

Article 7th makes it imperative on the Legislature to establish, at as early a day as practicable, Free Schools throughout the State, and to set apart one-twelfth of the annual revenue derived from taxation, as a perpetual fund for their support.

Article 8th defines the qualifications of voters. Male citizens over twenty-one (Africans and the descendants of Africans and uncivilized Indians excepted) are considered voters.

Article 9th contains general provisions, the following of which are of the most importance:

"8. The Legislature shall have power to lay an income tax, to tax all persons pursuing any trade, occupation, or profession; provided, that the term occupation shall not be construed to apply to pursuits either agricultural or mechanical. Corporations shall not be created in this State by special laws, except for municipal purposes; but the Legislature may provide, by general laws, for the organization of all other corporations, as hereinafter provided.

"9. The Legislature shall not have power to create, authorize, or incorporate, by any general or special law, any bank or banking privilege, or power, or any institution or corporation having any banking privilege or power whatever, except as provided in the section following.

"10. The Legislature may submit to the voters of any general election the question of bank or no bank, and if, at any such election, a number of votes equal to a majority of all the votes cast at such election, on that question, shall be in favor of banks, then the Legislature shall have power to pass a general banking law, with such restrictions and under such regulations as they may deem expedient for the safety of the bill-holders.

"11. The credit of the State shall never be loaned for the benefit of any individual, corporation, or association.

"12. No divorce from the bonds of matrimony shall ever be granted, except by special act of the Legislature."

A schedule is appended, providing against inconveniences that may attend the transition from a Territorial to a State Government.

The Constitution goes out with the following address from the President and Secretaries of the Convention:

TO THE PEOPLE OF NEW MEXICO.

We, the delegates of the people of New Mexico, in Convention assembled, have now the honor to submit, for the consideration of the people, that Constitution which appears to us best for the moral, social, and political welfare and well-being of the country.

The friends of New Mexico have long desired and ardently sought a stable, uniform, equal, and just system of laws, and administration of justice; and the means we have taken to effect these objects are, in our opinion, the most judicious that the present condition and circumstances of the country admit of adopting.

Slavery in New Mexico is naturally impracticable, and can never, in reality, exist here; wherever it has existed it has proved a curse and a blight to the State upon which it has been inflicted—a moral, social, and political evil. The only manner in which this question now affects us is politically; and on grounds of this character, with its general evil tendencies, we have unanimously agreed to reject it—if forever.

In all our councils, on this and every other subject, we have steadily endeavored to keep in view the real interests of New Mexico, in which are deeply involved our present sovereign and independent existence as a State, our future prosperity, and public and domestic felicity. These high considerations, profoundly impressed on our minds, induced each member of the Convention to be less adhesive to his own views of minor points than might have been otherwise anticipated; and hence this Constitution is the offspring of a cordial amity, and of that mutual deference and happy spirit of concession which the peculiarities of our situations rendered indispensable.

That it will meet the full approbation of every citizen is scarcely to be looked for; but that it is liable to as few objections as could reasonably have been expected, we hope and believe. That it may prove a lasting benefit to the people, and secure their freedom and tranquillity, is our most ardent prayer. JAMES H. QUINN, *President.*

Franc'o Ortiz y Delgado	Murray F. Tuley
T. S J. Johnson	Joab Houghton
José Manuel Gallegos	Charles Overman
Ceran St. Vrain	Antonio José Otero
José Maria Martinez	George Gold
José Ant'o Mansanares	José Pablo Gallegos
Levi J. Keithly	Juan Perea
José Ant'o Baca y Pino	Ramon Luna.

ROBERT CARY y DONACIANO VIGIL, *Secretaries.*

We have reserved to the last the provision prohibiting slavery. It constitutes the first section of the first article, and is as follows:

"SEC. 1. All men being born equally free and independent, and having certain natural, inheritant, and inalienable rights, amongst which are the enjoying and defending of life and liberty, the acquirement, possession, and protection of property, and the pursuit of and attainment of happiness; therefore, no male person shall be held by law to serve any person as a servant, slave, or apprentice, after he arrives at the age of twenty-one years; nor female in like manner, after she arrives at the age of eighteen years, unless they be bound by their own consent, after they arrive at such age, or are bound by law for punishment of crime."

It is to be regretted that this provision is not more explicit. It excludes African slavery, as existing in this country, but does it not tolerate peonage? It certainly allows any person, white or black, to become "a servant, slave, or an apprentice," after he is twenty-one, "*by his own consent.*" Still, it is not to be supposed that any person in his right mind will voluntarily convert himself into a *slave*. As to *peonage*, we do not believe it can long withstand in any event the influence of any considerable infusion of the Anglo-American element into the population of that country.

BROWNING'S POEMS.*

This, we suppose, to be a reprint of an English edition; it is in two volumes, and comprises all the dramatic pieces and lyrics of this remarkable poet. The poetry of Browning must be studied before we can do justice to it. Few take to it kindly at the first, or like it altogether at the last. The inspiration is not to be questioned, but the revelation is often unsatisfactory. The poet's richest and most original thought has often an involved, a mystical, and an imperfect expression. One who would receive the high imaginings and divinations of genius by some direct and easy process, and through a clear and pleasant medium, would be perplexed and half-angered by this poet at the first reading, at least. There is often about his poetry a dimness and a density which result from the depth of his thought and the affluence of his fancy. "*Paracelsus*," for instance, is unreadable to the mass; but the enthusiastic student receives it almost as a new revelation of poetry. Yet it is not a poem proper, neither is it a regular drama; but a "long, winding, subtle, sweet, and varied *talk*." It is full of grand conceptions, exquisite fancies—sometimes only given in luminous hints, startling intimations, and sometimes diffused and elaborated almost to weakness and folly. Now comes a strange thought of giant proportions, almost undraped and wholly unadorned, followed by some little old friend of ours, wrapt about and overloaded by a new and gorgeous dress. Who can doubt but that this poem, peculiar, and in many passages powerful as it is, would be greatly bettered if compressed into half its present compass. While one poet spreads his poetry over so wide an expanse, and while its waters are often so unfathomable or unclear, we think it will remain a luxury for the few. This is an age of preoccupation and hurry; and not many of us can stay to study out the most solemn sounding of oracles, if given in an unknown tongue, or turn aside from direct and pleasant paths to explore wild forests, of however magnificent growth, into which open no clear and inviting vistas. "Paracelsus," and indeed, most of the poetry of Browning, is to be studied, as we have said; and alas! the many do not study, thus this poet can hardly be to them priest, or interpreter. The "*Blot in the 'Scutcheon*," and some of the "*Dramatic Lyrics*," are exceptions to these remarks. We see nothing in the way of their universal popularity. They have power, tenderness, melody, sufficient condensation and directness—have a wonderful fidelity to nature, and are informed with a fine poetical philosophy. "Paracelsus" and the like labored poems seem emanations alone from the large, *unwieldy*, if such a term may be used, intellectuality of the poet; but in the sweet and mournful story of Mildred and Mertown beats his warm human heart—so sympathetic, strong, and *wise* in affection and Christ-like charity.

We regret that our limits will not allow us to make extracts from some of our favorites in these volumes; yet we should hardly know when to pause when once fairly in. Browning is one of the richest of authors in striking and quotable passages. Sometimes, amid his most unformed and mystical language, comes a happy, lucid expression, a bright rift, a sudden revealing of heaven through clouds and shadows—verbal felicities, pleasant surprises of humor, delicious turns of sentiment, and soft yet masterly touches of pathos, which would summon smiles to the sternest lips, or from the coldest and most philosophical heart roll away the stone which shuts down the fountain of tears. On the whole, Browning is a poet whom all readers of poetry should know, and know perfectly. "Drink deep, or taste not," is the rule, as regards a poet of his original genius and peculiar style. One must cultivate a liking for him, as we cultivate a taste for olives and tomatoes. Few, we repeat, take to him with a genuine relish at first; but, in the end, the reward and the pleasure are certain, we think.

We must not forget to commend the great neatness with which this work has been brought out by those most admirable and liberal publishers, Ticknor, Reed, & Fields. Their list of late and forthcoming publications can hardly be equalled by any American house. It comprises more works of a high character, from the best authors of our time, than any we remember to have seen for years. Messrs. Ticknor, Reed, & Fields, seem to be especially the publishers and the favorites of poets, who have the taste and judgment to perceive that their sweetest verse will read the sweeter in clear type, with marginal settings smooth and pure.

Among the forthcoming works announced in their catalogue, our readers will be delighted to learn, is the following: "*The Poetical Writings of Grace Greenwood—nearly ready, with a fine portrait, 1 vol. 12mo.*"

Few of our literary writers have written so delightfully or to so much purpose. *

* POEMS BY ROBERT BROWNING. Boston: Ticknor, Reed, & Fields. For sale by Taylor & Maury, Washington.

EUROPEAN INTELLIGENCE.

The following is the telegraph account of the latest news from Liverpool, (being to the 6th inst.) brought by the steamer America:

GREAT BRITAIN.

As Sir Robert Peel was proceeding from his residence in Whitehall up Constitution hill, on the 29th ultimo, on horseback, his horse having shyed at something passing, kicked up his heels and threw Sir Robert over his head, on his face. Although rendered insensible by the fall, Sir Robert retained hold of the reins, and the animal being thus checked lost his footing, and fell heavily upon the top of the baronet. Several gentlemen passing rendered the necessary assistance, and the Ex-Premier was placed in a carriage, and removed to his house in Whitehall in a state of insensibility. All the medical talent of London

was soon at his disposal. Their united efforts were unavailing. After lingering till eleven o'clock on Tuesday night, the great statesman expired, in the 63d year of his age.

The event caused a great sensation in England and France. The English papers are filled, almost to the exclusion of everything else, with extended notices of the life and character of the late Premier, and with speculations as to the effect his death will have upon the politics of his country. In reply to an offer by Lord John Russell, in the name of her Majesty and the nation, of a public funeral, the family declined the honor, inasmuch as it was Sir Robert's last wish that he should be buried in Drayton Abbey, with as little parade as possible.

In the House of Lords on Monday night, the Ministry suffered another defeat, by a majority of twenty-two, on the Irish Franchise bill. The proposal of the Government was, that the franchise should be regulated by an £8 qualification, and Lord Stanley proposed an amendment that the qualification be £15 instead. The amendment being carried, and the principle of the bill destroyed, Government has since withdrawn it. They have also withdrawn the Lord Lieutenancy of Ireland bill, the Mercantile Marine bill, and the amended Incumbered Estates' bill. They have announced their determination to stick to the budget, and, if needs be, appeal to the country upon it.

Our correspondent supplies us in another place with a general view of European intelligence.

Mr. Pearce, appointed Secretary of the Interior, has declined that appointment. He was constitutionally ineligible—the office having been created during his term of service in the Senate.

Mr. Corwin, we learn, enters the Cabinet with extreme reluctance; and, for one, we are extremely sorry that he should be persuaded to leave the Senate.

FOREIGN CORRESPONDENCE.

Paris, *July* 4, 1850.

To the Editor of the National Era:

The debates in the Assembly have been quite uninteresting for a week past. Two or three trifling checks to the Ministry on the usury law, and one much more important on the Mayors' bill. The Assembly refused, by a large majority, to put this bill on the order of the day for Thursday. As this is a clear intimation of its intended rejection, the Ministry will probably withdraw it until a more favorable season. The bill against the press will be up for discussion in a few days. A tax of a cent and one-fifth is proposed to be levied on each number of the papers published in Paris. The probabilities are that the bill will pass.

The sudden death of Sir Robert Peel, and the late balloon ascent of Messrs. Bixio and Barrol, are the chief topics of conversation in Paris. After these come the failure in the attempts to unite the two branches of the house of Bourbon, the dinner given to M. Girardin by the workmen of *Le Presse*, the quarrels of the Legitimists among themselves, the intention of the President to finish the *Cité Ouvrière*, or laborers' lodging-house, out of his own funds, the duel of Messrs. Valentin and Clary, two members of the Assembly, and the acquittal of a democratic paper, by the Paris jury. All these details are uninteresting, and I will dismiss them here, in order to take up the news from the other parts of the European continent.

GERMANY.

The affairs of this much-divided country are as complicated as ever, and as much in the dark. An occasional ray of light thrown on some parts, serves to show the tangled and intricate state of the whole. The interminable affair of the Duchies of Schleswig-Holstein is as far from a solution as ever. Denmark has sent in her *ultimatum* to Prussia, but no answer has been received. Six months ago, I indicated to you the probability that Prussia would finally abandon the cause of the Duchies, and leave them to struggle alone against Denmark. This is as probable now as then, and the delay interposed by the Prussian diplomatists seems to have no other cause than to avoid the appearance of abandoning allies, and also to avoid offending the public sentiment of the free cities of North Germany, which sustain with enthusiasm the cause of the Duchies. These cities once safe in the Prussian League, and the Duchies will be left to their fate. The late communications of the Danish Cabinet to the *Landesthing*, or National Assembly, on this subject, show that England and Russia are both on the side of Denmark. The peace of Europe is not likely to be disturbed by the question of Schleswig-Holstein. If any one wishes to inform himself on a question which has many interesting features, he will find a good pamphlet on it, written by our late fellow-citizen, Mr. Wheaton.

The negotiations between Austria and Prussia have been broken off and resumed a second time. This play between the two Powers is becoming ridiculous—they having quarrelled and made friends at least a dozen times during the last two years. The object of this seems to be to force the different German States to take part with one or the other, and thus further what is doubtless their great plan, the entire supremacy of these two States in Germany.

The secession of the two Hesses from the Prussian League seems to be now definitive. M. Jaup, the last Hessian minister favorable to Prussia, has just given in his resignation; while M. Hassenpfug, lately condemned in Prussia for embezzlement of funds and counterfeiting, remains minister in Hesse Darmstadt, and Plenipotentiary of Hesse at the Frankfort Congress.

This Congress is doing absolutely nothing.

The Constituent Assembly of Wurtemberg reassembled on the 27th ult. Its first act was to order the impeachment of M. Wachter Spittla, Minister of Foreign Affairs, for high treason. The vote stood 50 for, and 11 against. His crime is having conspired with Austria to bring back Germany to the Constitution of 1815. The President of the Assembly was charged with the execution of the order of the Assembly. This act is one aimed at the King himself, who is quite as guilty as his minister. He has sent the latter to Paris as Minister Plenipotentiary of Wurtemberg, until the storm blow over. The day after the above vote, the Cabinet demanded a law, authorizing the collection of taxes for four months, but the Assembly refused this by a unanimous vote, and authorized it for two months only.

The Cabinet of the King of Hanover resigned on the 27th ult., for reasons not known.

SPAIN.

A note inserted in *El Eraldo*, a Madrid paper, in the number of the 25th ult., contradicts the report of the disturbance of the usual friendly relations between Spain and the United States.

PORTUGAL.

Two American frigates are said to have entered the Tagus on the 19th ult. The Portuguese papers suppose that their intention may be to support by an imposing force the pecuniary demands of the United States on Portugal.

ITALY.

The Pope has been celebrating the anniversary of his elevation to the Papacy. A great number of small coins were distributed among the poor, and a great many medals and crosses of honor conferred on the soldiers. Each man of the Swiss guard received a medal, on which was engraved the word "*Fidelitati.*" The funeral of the soldiers who fell in attacking Rome, was celebrated with masses and processions of priests. While the capital is employed in festivities and ceremonies, the provinces of the Roman States are in great disorder. In some of them the misery of the people is so great, that the peasants have formed themselves into bands of brigands, for the pillage of the rich country seats of the nobles. These have most of them fled to Rome, or to foreign countries; others remain, but keep near them a number of armed men for the protection of their property.

The constitution of Naples has been entirely abolished by the King, and he is now uncontrolled in his despotism.

In the prolonged absence of the Grand Duke of Tuscany at Vienna, a strong party has been formed against him and the Austrian influence. The Ministers, sustained by the Austrian troops which garrison the Duchy, view with alarm the increase of their opponents. These are encouraged by the Piedmontese ambassador. Their two organs in the press are *Il Statuto* and *La Constituzionale*, the ablest papers at Florence. The course of the latter paper has been so aggressive that the Minister ordered, two weeks ago, the editor, M. Aguarove, to leave Tuscany in three days. The Piedmontese ambassador protested against this violence. The Grand Duke has sent for his Prime Minister to join him at Vienna. The pretext for this is a consultation with the Austrian Government on the subject of a railroad system for Italy.

The recent acts of Piedmont show that the Cabinet of King Emmanuel are trying to conciliate the democratic party of Italy. Their internal and external policy is marked with a certain liberality which differs widely from their acts of last year.

The Austrian governor of Venice has just published a proclamation, for the purpose, as he says, of granting the liberty of the press to the people. Everybody is to be at liberty to publish a journal, and the censure is abolished. The only check the governor retains on the press is the right to suspend one of them immediately, for any attack on the Austrian Government, army, officers, administration, or for any political article whatever of bad tendency. The suspension of the paper to be accompanied by the imprisonment of the editor and publisher. But, the governor adds, as there are many articles which do not directly attack the Government, but are of bad tendency, he reserves for such cases the right of admonishing the offender. The admonition is to consist of a temporary suspension of the press, a fine, or imprisonment, or all three of them together, at the pleasure of the governor. If the Venitians are not satisfied with the liberty of the press, verily, they are hard to please.

In speaking of Naples, I forgot to mention the demand made by the Count of Montemolin, the pretender to the throne of Spain, of the hand of Carlotta, sister of the King of Naples. The King agreed, but the ambassador of Spain protested, and the match has been broken off.

RUSSIA.

The celebrated painter, Horace Vernet, has been on a visit to St. Petersburg, for the purpose of painting something for the Czar. On taking leave of him, the Czar made him a present of one hundred thousand dollars, with which M. Vernet has returned to Paris, quite satisfied with his trip.

The Grand Duchess of Russia has had made at Paris a magnificent service of silver plate. The value is stated in one of the Paris papers at one hundred thousand pounds sterling. The good days of royalty are evidently not over yet in Russia.

FOREIGN POLICY OF FRANCE.

The policy of Louis Bonaparte, for some time past, has been to seperate himself as much as possible from the more liberal courts of Europe, and to ally himself more closely with Russia and Austria. In pursuance of this policy, the late onslaught was made on the English Ministry with the intention to overthrow it, and secure a Tory Ministry in its stead.

In this matter, as in the affairs of Germany, the Administration party in France begins to see that it has made an error, and was working for the Czar rather than for the influence of their own country. A Tory ministry in England would be the ascendency of the Russian influence, and not the French; and recent events in Germany show that while France has been inactive, the Czar has contrived to render himself almost a dictator in the affairs of that country. The *Journal des Debats* raises the cry of alarm, and points out the dangers of the further increase of Russian influence in the west of Europe.

ALGIERS.

The jealousies existing between the civil and military governor of the province of Oran has come to a singular *denouement*. I mentioned in my last a conspiracy said to have been discovered at Oran, and the arrest of a great many persons. It turns out to be nothing but a charge made by General Pelissier against the Prefect, of favoring liberal opinions. The Prefect has been dismissed by the Minister, and a good number of civil functionaries arrested, but the whole affair will end in smoke. W.

FROM CALIFORNIA.

There has been another dreadful conflagration at San Francisco, which is reported to have destroyed three hundred houses, valued, with other property lost, at five millions of dollars. The fire happened on the 14th of June.

Business at San Francisco was dull, and the same state of things extended to the surrounding country. In the mining regions, the water continued too high to allow of successful operations, and inactivity was the consequence. It is stated, however, that many new mines have been opened, and that great success was expected when the miners should again get to work.

TEXAS AND NEW MEXICO.

A despatch from New Orleans, dated the 15th instant, says that there is much excitement in Texas in relation to New Mexico. Meetings have been held at San Antonio and on the battle-field of San Jacinto, at which resolutions were passed denouncing the General Government, and requiring the Governor of Texas to proclaim Santa Fe in a state of insurrection, &c. An extra session of the Legislature of Texas has been called, to meet on the 12th of August.

MR. HALE AND MR. WEBSTER.

Mr. Hale last week in the Senate rather disconcerted Mr. Webster by one of those pointed hits for which he is famous. Mr. Webster in his elaborate speech had ridiculed the incongruities of the opposition to the Compromise bill.

Mr. Hale admitted that the picture was amusing, but it had two sides, though Mr. Webster had shown only one.

"Sir, I disclaim speaking of the Senate, or of any particular Senator; but I will call the attention of the Senate to what I have seen. I have seen a meeting of the friends of this bill—not in the Senate, of course—and that it may not be supposed that I speak of individuals, I will designate the individuals whom I mean by the names of States, and that cannot offend anybody, because there are a great many people in every State. Well, sir, I have seen a meeting of the friends of this bill, and that not very long ago. I went into this meeting, sir; and the first thing I saw were two honorable gentlemen—honorable for their years, honorable for their talents, honorable for the high rank which they sustain in the country—I saw these two honorable gentlemen sitting 'cheek by jowl,' arm in arm, affectionately consulting each other; and I will designate these two old gentlemen by the names of Michigan and Kentucky, [laughter]—not meaning anything personal, because I use the names of the States as an indication of their sentiments. Well, sir, it was a happy sight, and augured well for the perpetuity of the Union, and for the continued exercise of those fraternal feelings which we are all so anxious to see restored. Sir, it did my heart good. [A laugh.] Next to them I saw two other gentlemen, who appeared to have become recently acquainted—gentlemen of high reputation, of commanding influence in the country. These gentlemen I will designate by the names of Mississippi and Massachusetts. They were taking sweet counsel together, proceeding to the same end, but coming to it by different steps. One, sir, was a fiery youth, [laughter,] and he denounced the Wilmot Proviso as 'infamous,' and as 'a thing that ought to be buried;' 'and,' says he, 'this bill is the thing that does it; and therefore I am in favor of it.' Says the other gentleman, with a quiet and subdued manner, 'It is rather hard, Mississippi; for a few years ago I felt a solicitude for this very measure which you are denouncing. It is hard for me to hear you denounce it in this way. Had we not better turn it over to the laws of God and physical geography?' 'Agreed,' says Mississippi, 'and we will go together and support the bill.' Well, sir, I saw other gentlemen whom I had never seen before.

"Mr. Foote. Will the gentleman allow me to ask him a single question? [Laughter.]

"Mr. Hale. Certainly, if only a question.

"Mr. Foote. Only for a question; and a very short one, too—one, perhaps, which he will consider a very satisfactory one to answer. I would like to know whether he saw any disunionists or abolitionists at the meeting he describes?

"Mr. Hale. I cannot say as to that; for it was agreed at the time that they would put everything into the back ground that did not relate to the passing of the bill; and therefore all those questions which did not directly relate to the passage of the bill were studiously kept very far in the back ground. The honorable Senator from Mississippi [Mr. Foote] seems to think I was speaking of an actual meeting, and of individual things, whereas I was only speaking of classes. This, sir, is a mere imaginary meeting, and I suppose the Senator from Mississippi might imagine I referred to him. Sir, I understand the rules of decorum and debate better than to be thus personal. I did not mean anything of the sort.

"Well, sir, I saw two old gentlemen there that I don't think ever met together in a meeting before, consulting together, and all agreeing to support the bill. The names of these two old gentlemen—and there were a considerable number of the family there besides—their names were called 'Whig and Democrat.' Yes, sir, they were both there, [laughter;] and they agreed to lay all their differences aside, and to support this bill. And, sir, had there been a painter there, possessing the graphic powers of delineation of the Senator from Massachusetts who has just taken his seat, he would have drawn a picture which, compared with the one he has presented to us, would have made it appear faint and feeble indeed.

"Sir, I have seen all this within these last few days—not in this chamber, of course; but it is a fact, nevertheless; and while such incongruities come together to support this bill, I must say, that, to my unsophisticated taste, it is rather in bad taste, for those who composed this meeting to find fault with the 'incongruities' in opposition to this bill. So far as I am concerned, I will agree to go square upon the matter, and we won't twit on either side. I leave that part of the subject."

CONGRESS.

THIRTY-FIRST CONGRESS—FIRST SESSION.

SENATE.

Tuesday, July 16, 1850.

Mr. Jones presented the resolutions of a Democratic State Convention in Iowa, in which the plan of adjustment reported by the Committee of Thirteen was approved.

Mr. J. expressed himself strongly opposed to the Wilmot Proviso.

Mr. Seward presented the proceedings of a public meeting held in the State of New York in opposition to the bill.

Mr. Hale presented a petition from colored inhabitants of Alleghany county, Pennsylvania, setting forth that they have no record evidence of their freedom, and praying that all provision in the act of 1793 relative to the rendition of alleged fugitives from labor be repealed, &c. Laid upon the table.

Mr. Upham presented the resolutions of the Legislature of the State of Vermont, urging that slavery in the District of Columbia may be abolished, and the provisions of the Ordinance of '87 be applied to all Governments made for the Territories.

Received and laid on the table.

Mr. Davis of Massachusetts introduced a bill amendatory of the acts heretofore passed for the safety of passengers on board of steamers.

The Senate then resumed the consideration of the bill reported by the select Committee of Thirteen—to admit California into the Union as a State; providing Territorial Governments for Utah and New Mexico; and making proposals to Texas for the settlement of her western and northern boundaries.

The question pending was on the following amendment proposed by Mr. Benton to that part of section thirty-nine containing the proposed boundaries of Texas:

Strike out of proposition first, of section thirty-nine, after the word "Beginning," these words: "at the point on the Rio del Norte commonly called El Paso, and running up that river twenty miles, measured by a straight line thereon, and thence eastwardly to a point where the hundredth degree of west longitude crosses Red river, being the southwest angle on the line designated between the United States and Mexico, and the same angle on the line of the territory set apart to the Indians by the United States;" and insert after the said word "Beginning" these words "at the point in the middle of the deepest channel in the Rio Grande del Norte, where the same is crossed by the one hundred and second degree of longitude west from the meridian of Greenwich; thence north along that longitude to the thirty-fourth degree of north latitude; thence eastwardly to the point at which the one-hundredth degree of west longitude crosses the Red river."

Mr. Rusk then proceeded, in a speech of more than an hour, in maintenance of the right of Texas to the whole territory east of the Rio Grande.

Mr. Clay said that he desired to make a few observations in reply to what had been said yesterday by the Senator who had introduced the amendment. The Senator was reported in the morning papers with having said that "the bill is caught *flagrante delicto*—taken in the fact, seized by the throat and held up to public view—in the very act of perpetrating its crime, in the very act of *auctioneering* for votes to pass itself." The reporter says that "Mr. B. here grappled a bill and held it up to view."

With regard to the sort of boa-constrictor struggle between the Senator and the bill, he had nothing to say. But he desired to know who was "auctioneering for votes for the bill." Who did the Senator mean was auctioneering for votes in the Senate? Was it the bill itself, or was it the members of the committee? He did not think that language, carrying with it such an imputation, was admissible in the Senate. If the Senator from Missouri meant to say that that part of the bill was inserted by the committee for the purpose of auctioneering votes in favor of it, he repelled it as an unfounded imputation.

Mr. Benton. The Senator said that he had used language yesterday which was unfit to be used here. He would repeat the language, and let it be tested. He had said that this bill was caught in the act of crime, and it was said that such language was unfit to be used. Shall acts be done here deserving such language, and no voice be heard to hold them up to the judgment of the country? The Senator had avoided the main point—the nerve which had been touched. He would repeat what he had said, to see if the Senator could he brought up to touch it. When speaking yesterday of the coy and bashful blank in the bill, he had used this language: "When we come to the filling up of that mysterious blank, so carefully guarded, I may be able to demonstrate that the effect of this conglomeration of bills, and that reservation of a blank, to be filled at the last moment, is to open an auction upon the floor of the Senate for the votes which are to carry through the omnibus bill, with all its multifarous and heterogeneous contents. The filling of the blank may develop the fact that the admission of California, and the establishment of Governments for two Territories, may depend upon the amount of money to be paid to Texas; and, if it does, it will present the highest evidence of the flagrant enormity of tacking incongruous bills together which the history of American or British legislation has ever exhibited." The Senator had carefully left this out when reading from his speech. He had then continued thus: "The bill is caught *flagranti delicto*—taken in the fact—seized by the throat, and held up to public view—in the very act of perpetrating its crime—in the very act of auctioneering for votes to pass itself. I seize it in the act, and hold it up to public opprobrium, and make it an era to be recurred to, and its fate to stand as a warning against all future conjunctions of incongruous measures"

This was what he had said, and which the Senator had avoided. He repeated it now. The language was parliamentary. He had nothing to say or to do with the members of the committee. He had nothing to do with their respectability. Gentlemen were not to come into the Senate and draw themselves up to six feet in height, and rely on the respectability of any committee. He was dealing with the measure before them. He had nothing to do with them; it was the bill he attacked, and this he had a right to do. He had denounced the measure. He repeated now what he had said then; and if it was desired to take issue with him upon the fitness of the language, let the Senator call him to order.

Mr. Clay said that he called the Senator to order.

Mr. Benton. Put the words in writing, and I will sign them.

Mr. Clay said that he would reduce to writing the words for which he called the Senator to order. He sent to the Chair the following words, used yesterday and to-day by the Senator from Missouri: "The bill is caught *flagranti delicto*—taken in the fact—seized by the throat, and held up to public view—in the very act of perpetrating its crime, in the very act of auctioneering for votes to pass itself."

Mr. Benton said that he demanded that the sentences immediately preceding, and subsequent to the words thus written down, should be added. And it was done. The words then were those given in the whole of the above extracts.

The Presiding Officer read the words to the Senate, and was understood to say, that if it were the intention of the Senator from Missouri to make any imputation upon the conduct of the members of the committee, then his language was decidedly out of order. If not, and the language was intended to apply only to the bill, then it was not out of order.

Mr. Benton said that his language was explicit. It spoke of the bill. He had nothing to do with the committee. He had denounced the measure, and had attacked it for its consequences. He knew what words he used, and knew them not to be out of order. He knew the rules of the Senate and the laws of decorum, and had carefully guarded against a violation of them. He had a right to speak of a bill and to denounce it. He had spoken of this bill, and of the effect of it on other measures included most unjustly in it.

After some further debate, the Senate adjourned.

Wednesday, July 17, 1850.

The Senate then resumed the consideration of the bill reported by the select Committee of Thirteen.

The question pending was on the amendment proposed by Mr. Benton.

Mr. Webster addressed the Senate at length in support of the bill, and in favor of harmony and conciliation. He was followed by

Mr. Hale in a humorous reply to a single point in his speech.

The question being taken on Mr. Benton's amendment, it was lost by the following vote:

Yeas—Messrs. Baldwin, Benton, Chase, Clarke, Corwin, Davis of Massachusetts, Dayton, Dodge of Wisconsin, Greene, Hale, Hamlin, Miller, Phelps, Seward, Smith, Upham, Wales, and Walker—18.

Nays—Messrs. Atchison, Badger, Barnwell, Berrien, Bradbury, Bright, Butler, Cass, Clay, Cooper, Davis of Mississippi, Dawson, Dickinson, Dodge of Iowa, Downs, Felch, Foote, Houston, Hunter, Jones, King, Mangum, Mason, Morton, Norris, Pearce, Pratt, Rusk, Sebastian, Soulé, Spruance, Sturgeon, Turney, Underwood, Webster, and Yulee—36.

Mr. Foote moved to amend the bill as follows:

Amend 39th section, by striking out the tenth and eleventh lines, and the word "eastwardly" in the twelfth line, and insert "where the 34th degree of north latitude intersects said river, thence east with said parallel of latitude."

Also amend the seventh section, by adding thereto a proviso making provision for a territory in the southern part of the State of California, with her consent.

The subject was then postponed till to-morrow.

Thursday, July 18, 1850.

The resolution to admit the editors of the *Southern Press* to the floor of the Senate coming up,

Mr. Hale moved to amend, by adding the words, "*and the editor of the National Era.*"

Mr. Yulee saw no necessity for the amendment of Mr. Hale, as the *Era* was a weekly paper, and the *Press* a daily. A weekly paper could make up its reports from the dailies.

Mr. Atchison thought that the privilege of the floor ought to be restricted to those printers who were officially authorized by the Senate; and on his motion, the subject was laid upon the table.

The report of the Committee of Thirteen was taken up, the question being on the amendments offered by Mr. Foote. Mr. Hunter addressed the Senate at length in opposition to the bill. In the course of his remarks he was called to order by Mr. Foote for extending the discussion to the bill relating to fugitives from service, which was not under consideration. The point of order was sustained by the Chair, and Mr. Hunter was obliged to confine himself to the bill before the Senate.

Mr. Foote followed in reply, particularly to the remarks of Mr. H. on the subject of non-intervention, reading extracts from Mr. Calhoun's speeches to show that the doctrine of non-intervention as embodied in this bill was the doctrine taught by that illustrious man. He also alluded to the Nashville Convention and its Address, and commented upon it. He defended the object for which that Convention was called. He defended the proceedings which took place in Mississippi leading to that Convention. He contended that the President of that Convention, and the people of the State of Mississippi, were as much devoted to the Union as any other portion of the people of the United States, and that they would remain firm and devoted to that Union, regardless of the attempts and invitations held out to them to become disunionists.

Mr. Davis of Mississippi asked his colleague if any invitation of the kind had ever been held out to the people of Mississippi.

Mr. Foote replied that there had been. He then referred to the proceedings of public meetings held in South Carolina on the 4th of July last, in which the spirit of disunion was most apparent, and at almost every meeting Mississippi was alluded to as the gallant, worthy State which had moved first, and which was to act with South Carolina in the objects of disunion. He also referred to the speeches of Mr. Rhett—an open and avowed candidate for a seat in the Senate—delivered in the Nashville Convention, and since then in South Carolina, in which the treasonable doctrine of secession and disunion was traitorously spoken.

He then referred to various other persons, whose speeches in the Convention and elsewhere breathed the spirit of disunion.

Mr. Foote explained that his amendment would secure 30,000 square miles to Texas of New Mexican territory, in addition to the 70,000 square miles proposed to be given by the bill. The question was then taken on the final amendment, which was lost, by the following vote:

Yeas—Messrs. Atchison, Badger, Barnwell, Berrien, Butler, Clemens, Dawson, Downs, Foote, Houston, Hunter, King, Mason, Morton, Pratt, Rusk, Sebastian, Soulé, Turney, Yulee—20.

Nays—Messrs Baldwin, Benton, Bradbury, Bright, Cass, Chase, Clarke, Clay, Corwin, Davis of Massachusetts, Dayton, Dickinson, Dodge of Wisconsin, Dodge of Iowa, Felch, Greene, Hale, Hamlin, Jones, Miller, Norris, Pearce, Phelps, Seward, Shields, Smith, Spruance, Sturgeon, Underwood, Upham, Wales, Walker, Webster, Whitcomb—34.

Mr. King of Alabama moved to strike out all of the second amendment after the word "provided," and insert—

"The boundary of the State shall be as follows: Commencing on the Pacific at the 42d degree of north latitude; thence with the southern boundary line of the Territory of Oregon to the summit of the Sierra Nevada, then along the crest of that mountain to a point where it intersects the parallel of latitude 35° 30′; thence with said parallel to the Pacific ocean."

The Senate adjourned.

Friday, July 19, 1850.

The subject was again resumed.

Mr. King of Alabama stated his views on the report of the Committee of Thirteen. He was in favor of the bill relating to fugitive slaves, and the bill for abolishing the slave trade in the District. The provisions for giving Territorial Governments to Utah and New Mexico embraced the Non-Intervention doctrine, and he could vote for them, believing as he did that the Mexican laws excluding slavery no longer existed. He was in favor too of settling the Texan boundary as proposed in the bill, for the territory purchased of Texas would still remain slave territory. He was opposed to the admission of California with her present extravagant boundaries, and unless his amendment were adopted, he could not vote for the bill.

Mr. Foote withdrew his amendment, and Mr. King moved his own, as a substitute proposition.

Mr. Berrien made a speech in favor of it, and was followed by Mr. Clay, who with great strength opposed projects of cutting down the boundaries of California. To admit her as she was he deemed indispensable to the success of the Compromise, of the fate of which, however, he seemed to doubt.

After considerable discussion between Messrs. Berrien, Butler, Clay, and Foote, Mr. Hale rose, and said that he had withdrawn his motion to lay the bill on the table, to allow its friends to present amendments, which it was understood were to be voted on without discussion. But, there had been nothing but discussion ever since. He should feel bound to renew his motion, and insist upon it, unless the Senate would put an end to this eternal talk, and come to voting at once.

Mr. Davis, of Mississippi, moved to amend the amendment by striking out "thirty-five" and inserting "thirty-six," so that it would read by the line of thirty-six degrees thirty minutes.

After some remarks by Messrs King and Davis, the question was taken, and the amendment to the amendment was rejected by the following vote:

Yeas—Messrs. Atchison, Badger, Barnwell, Berrien, Butler, Clemens, Davis of Mississippi, Dawson, Downs, Foote, Houston, Hunter, King, Mangum, Mason, Morton, Pratt, Rusk, Sebastian, Soulé, Turney, Underwood, and Yulee—23.

Nays—Messrs. Baldwin, Benton, Bradbury, Bright, Cass, Chase, Clarke, Clay, Cooper, Davis of Massachusetts, Dayton, Dickinson, Dodge of Wisconsin, Dodge of Iowa, Douglas, Felch, Greene, Hale, Hamlin, Jones, Miller, Norris, Phelps, Seward, Shields, Smith, Spruance, Sturgeon, Upham, Wales, Walker, and Whitcomb—32.

The question recurring on the amendment of Mr. King, it was also rejected, as follows:

Yeas—Messrs. Atchison, Barnwell, Berrien, Butler, Clemens, Davis of Mississippi, Dawson, Downs, Foote, Houston, Hunter, King, Mason, Morton, Pratt, Rusk, Sebastian, Soulé, Turney, and Yulee—20.

Nays—Messrs. Badger, Baldwin, Benton, Bradbury, Bright, Cass, Chase, Clarke, Clay, Cooper, Corwin, Davis of Massachusetts, Dayton, Dickinson, Dodge of Wisconsin, Dodge of Iowa, Douglass, Felch, Greene, Hale, Hamlin, Jones, Mangum, Miller, Norris, Pearce, Phelps, Seward, Shields, Smith, Spruance, Sturgeon, Underwood, Upham Wales, Walker, and Whitcomb—37.

Mr. Clemens moved to lay the bill on the table.

Mr. Foote desiring to offer an amendment, Mr. Clemens said he could not withdraw his motion for any more amendments, but he would withdraw it to give the Senator from Kentucky an opportunity to speak. Mr. Clay signified his intention to fill the blank to-morrow, and his desire to speak on Monday. The test vote may be taken on Tuesday, on the engrossment of the bill. Messrs. Berrien and Underwood also intimated a desire to submit some general remarks.

The Senate adjourned.

Saturday, July 20, 1850.

Mr. Pearce addressed the Senate upon this resolution, in defence of the late President of the United States from the charges made against him of being inimical to Texas, &c., by the Senator from Texas, (Mr. Houston.)

Mr. Rusk briefly replied.

The subject was then postponed till Monday.

During Mr. Pearce's remarks, a message was received from the President of the United States, of an executive character. After the postponement of the resolution,

Mr. Clay moved, and the Senate proceeded to the consideration of Executive business, and, at a quarter before three o'clock, adjourned.

Monday, July 22, 1850.

Mr. Douglas gave notice of his intention to offer an amendment to the rules, so as to introduce the previous question in the Senate.

The consideration of the report of the Committee of Thirteen was resumed, when Mr. Foote submitted an amendment restricting the limits of California by the line of 35 deg. 30 min., and providing for a Territorial Government south of that line.

Mr. Clay then addressed the Senate for more than three hours in support of the measures recommended by the committee, replying to the various attacks made upon them. In conclusion, he said that the fate of the bill was not certain. It depended on some four or six Senators, whose position had not been positively known. With them he left it to be decided. If it were defeated, it would be a triumph of Free-Soilism and Abolitionism; a triumph of extremists; and he fervently prayed that it might not result in evil consequences to the Union.

Mr. Barnwell replied to that portion of Mr. C.'s remarks commenting upon a speech lately delivered in Charleston. If the individual alluded to—who was known in the Senate and in the House—believes the Wilmot Proviso to be an aggression upon the constitutional rights of the South, which should be resisted; and if he believed that the admission of California would be a virtual enactment by Congress of that Proviso, because the prohibition of slavery by California will be dead and defeated unless it receives vitality from Congress—then he was not alone in saying, as several States had said, that it should be resisted.

He said that the term disunionist was becoming one which would not be the highest opprobrium. The term "rebel" had been applied in the times of the Revolution, when liberty was baptized in the blood of Warren at Bunker Hill, and illustrated by the bravery of Jasper at Fort Moultrie.

Mr. Clay said that he knew Mr. Rhett, the individual alluded to, and had some respect for him. But if he had used the expression attributed to him, that he would unfurl the banner of disunion against the General Government, and intended to follow up that declaration by any act, then he was a traitor, and he hoped he would meet the fate of a traitor. [Applause in the galleries, which was suppressed immediately by the Chair.]

Mr. Hale replied to that portion of the speech of Mr. C., in which it was denied that those from the North who voted for the Missouri Compromise had not for that act been politically doomed. He maintained that they had, and that many of them were now living tombstones of their own fate.

Mr. Clay replied, citing the names of some half dozen of them, to show that the Senator was mistaken as to the political fate of those at the North who had voted for the bill. After adverting at length to this, he said that even if one had been so stricken down, he would write upon his tomb this epitaph: "Here lies a noble patriot, who loved his country better than himself"—an epitaph he feared be could never write upon the Senator from New Hampshire.

Mr. Hale doubted whether the vocation of the Senator was to write epitaphs. He repeated his convictions that what he had said as to their fate was correct. Had he the right to write an epitaph on such a man, he would say, "Here lies a man who sacrificed his constituents for an office."

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

Tuesday, July 16, 1850.

Mr. Strong offered a resolution that all debate on the resolution reported by the Committee on Elections, declaring "that it is inexpedient to admit Hugh N. Smith, Esq., to a seat in this House, as a delegate from New Mexico," shall cease in two hours after the House shall again go into Committee on the subject. Subsequently, he modified his resolution, by substituting two o'clock to-morrow for the termination of the debate; and it was agreed to.

On motion of Mr. Strong, the House resolved itself into a Committee of the Whole on the state of the Union, (Mr. McLane of Maryland in the chair) and proceeded to the consideration of the special order, being the report of the Committee of Elections, to which were referred the credentials and the memorial of Hugh N. Smith, praying to be admitted to a seat in the House as a delegate from New Mexico.

The report concluded with the following resolution, viz:

Resolved, That it is inexpedient to admit Hugh N. Smith, Esq., to a seat in this House as a delegate from New Mexico.

Mr. Ashe adverted to the early history of New Mexico to show that the rights of Texas would he affected by the admission of the delegate, as a recognition would thus be made of the claim of the former to territory in dispute.

Mr. Kaufman regarded this as a question of vital importance to the peace and vitality of this country; and if it was to be decided favorably to New Mexico, the consequences would he truly momentous.

Wednesday, July 17, 1850.

The consideration of the resolution concerning the memorial of Hugh N. Smith was renewed in Committee of the Whole on the state of the Union.

Mr. Bayly of Virginia said: The action of this Administration has been the fountain of the bitter waters; and the taking of the question from Congress has been a constant series of violations of Constitution and law. He did not believe that there was any portion of the country where slavery can be more profitably employed than in California, in mining operations. And why was slavery excluded? Because every man in the Convention was engaged in the scramble for gold. What was done there, however, was propriety itself, compared with the proceedings which had taken place in New Mexico, and which it was proposed to institute. The Constitution of New Mexico was now in this city, and he desired to show, in advance, that if she be admitted, under the circumstances, it would be a dangerous and palpable violation of the Constitution.

Mr. Carter of Ohio said: What, he asked, has the question of New Mexico, as a State, to do with the subject now pending? You recognise no distinct organization by the admission of the delegate. You do not treat with her as a State. She does not aspire to sisterhood, but comes here on her knees, supplicating to be heard in her own defence. He did not intend to bring into the discussion the question of boundary, which has been made use of for sinister purposes. All we do, by the admission of the delegate, is to declare that citizens of the United States shall be represented by the man sent hither by New Mexico, and who possesses a knowledge of the people and the country, that he may give to us the information necessary to legislation with reference to the Territory. This is all there is of it; and still the ears of this House are belabored for hours over a conflict of State sovereignty about the boundary. There is no danger of a conflict between Texas and New Mexico. They are six hundred or five hundred and seventy-five miles apart. The country of separation is as broad as the desert of Sahara. He repudiated, as unwise and unjust, the bringing in of the question of boundary, on the simple proposition to admit the delegate.

Mr. Stephens of Georgia stated the ground of his opposition to the admission of Mr. Smith was, that he came here to represent, as a delegate from New Mexico, persons residing within the recognised boundaries of one of the States of this Union—Texas.

Mr. Howard spoke about the effect of admitting the delegate. When this shall have been done, all negotiation with Texas will be at an end. The question must be settled, either by Texas submitting peaceably, or by a resort to the sword. He did not utter this as a threat, but merely expressed the public sentiment in the State which he in part represented. There was much excitement in that portion of the country. He spoke what he knew, and what will be the effect of the act, without expressing an opinion as to the justness of the determination. A few days ago, he received despatches from the Governor of Texas, applying to the Federal Government to know whether it be its purpose to ratify the late proceedings of Colonel Monroe, calling a convention at Santa Fe, to form a Constitution and State Government; and to know whether it will enforce the act by its military power; and to enter a solemn protest on the files of the Executive Department, if such be the object. He learned, from the same source, that Texas has taken active measures to protect herself from the purposes of the Federal Government, and, by military power, to resist aggression on her rights, which she is bound by honor to maintain. Resolutions, during the late session of the Legislature, were introduced, requiring the members of Congress to leave this hall in case the delegate should be admitted to a seat; and they were withdrawn only from the sentiment at that time entertained, that they could not be passed.

Mr. Burt inquired of the gentleman, whether the demand of Texas had been laid before the President, and what answer had been received.

Mr. Howard replied, that he had not yet received an answer, owing, no doubt, to the recent occurrences. He, however, anticipated an answer, for one must come in some form. The demand was made in such a manner as that a reply cannot be withheld. Gentlemen may as well remember now, as hereafter, that the people of Texas, for twenty years, slept on their arms, and they will not submit to any outrage on their rights and honor as one of the States of this Union.

Mr. Brown of Indiana regarded this question as contained in a nutshell. It had been said that the boundaries of Texas had nothing to do with it, but it was sufficient to induce him to vote against giving the delegate a seat on this floor. He would not vote to admit any delegate, if there was a claim to the territory by a sovereign State, until the claim was fully and fairly settled.

Mr. Strong of Pennsylvania made the closing speech in support of the report of the committee.

The debate having terminated, the Speaker stated that the following resolution, offered by Mr. McGaughey as an amendment, was pending:

"*Resolved*, That the said Hugh N. Smith, Esq., be admitted to a seat in the House of Representatives, as a delegate from New Mexico."

Mr. Boyd moved an amendment—that A. W. Babbitt be admitted to a seat as a delegate from Deseret. Mr. Carter objected to it as out of order. The Chair [Mr. McLane] ruled it in order; an appeal was taken, and his decision reversed—88 to 62. On motion of Mr. Schenck, the resolution of Mr. McGaughey was so amended as to admit Mr. Smith to a seat "for the 31st Congress" A motion by Mr. Meade to amend, by inserting the words, "from that portion of New Mexico lying west of the Rio Grande," was voted down—69 to 58. The Committee then adopted a proviso offered by Mr. Fitch, of Indiana, "that such admission is not to be understood as expressing any opinion relative to the conflicting boundary between New Mexico and Texas."

Mr. Gorman, of Indiana, moved the following proviso:

Provided, That the said delegate was duly elected by the qualified voters of New Mexico, in accordance with the laws in force therein.

Ayes 57, noes 89.

The Committee rose without coming to any conclusion.

The Speaker laid before the House a communication from Mr. Crawford, Secretary of War, asking the House to cause legal proceedings to be instituted against him for the recovery of any portion of the Galphin claim which he had received.

The House adjourned.

Thursday, July 18, 1850.

The House, in Committee of the Whole on the state of the Union, was engaged in the consideration of the resolution respecting Hugh N. Smith. Five minutes speeches, on amendments, consumed the day.

An amendment offered by Mr. Green of Missouri, to strike out the words, "*as a delegate*," was lost—yeas 67, nays 80.

Mr. Stevens moved to strike out "*in*," from the word *inexpedient*, in the resolution of the majority of the Committee.

He said that he was in favor of admitting the delegate, for the reason that New Mexico was formerly an authorized, organized community, and one of the Provinces of Mexico. There were large interests to be determined on judicial authority. Texas has able and zealous advocates here. New Mexico, who is equally interested, has nobody on this floor especially to advocate her rights. Are we to try this question *ex parte*, and be the judge and advocate, and exclude the other party from a voice here—a benefit which is allowed to the commonest malefactor? We by law allow the accused to be heard by counsel, selected by themselves. He believed with his colleague, [Mr. Strong,] that the boundary is out of the question, and that the only point was, Shall New Mexico be heard in the trial of a great question? We should not, as Rhadamanthus, the judge of hell, determine it without giving a fair hearing. Are we to be guided by American justice, or take the place of the infernal judicatory?

Mr. Meade of Virginia moved to admit Mr. Smith "at the proper time;" Mr. Taylor of Ohio "as soon as possible." Mr. Meade's amendment was rejected.

Mr. Gorman of Indiana proposed an amendment—"provided that at the time of his election he resided within the undisputed boundary of Texas."

Mr. Thompson of Pennsylvania was sorry to be obliged to oppose the admission of the delegate.

Mr. Johnson of Arkansas said that Mr. Smith was born and bred in the South, but he had published a pamphlet of a grossly Abolition character, and, by this means, had drawn to him the sympathy of a majority of this House. He found gentlemen going for Mr. Smith for no other reason than this. And he read from the Journal the names of certain gentlemen who voted against Mr. Sibley, as the delegate from Minnesota, and are now about to vote for Mr. Smith.

Mr. Houston. My purpose is to vote for the admission of the delegate.

Mr. Johnson. You voted for Mr. Sibley. I did not read your name. I feel satisfied now that gentlemen who change their ground should give to the House and the country some good reason for doing so.

Mr. Bissell simply wished to say two things, which by no means would influence his vote. The intimation had just been made that Mr. Smith is to be introduced to his seat on Abolition grounds.

Mr. Johnson. I never said so. Other gentlemen may vote for him for different considerations; but I say that there are some who will vote for him on that ground.

Mr. Bissell remarked that his vote would not be influenced by the charge, whether it was general or specific. Another thing: the intimation that it will lead to a civil war would not influence his vote, because he did not believe it. If it had come to this, that the admission of a delegate to speak, with scarcely any of the privileges of a member, is to endanger the Union, and embroil us in a civil war, the quicker we know it the better. The admission of the delegate will not be attended by any such consequences; and he did not believe that if the delegate was admitted it would be by an Abolition movement. There was great propriety in admitting the delegate.

Mr. Inge sent to the Clerk's desk, to be read, two extracts from the pamphlet of Mr. Smith, addressed to the people of New Mexico, in which he spoke about the slave power and sordid speculators being arrayed against New Mexico, and called upon them to assert their rights by forming a State Constitution interdicting slavery.

After various amendments had been rejected, the amendment of Mr. Bowie—to admit Mr. Smith as the advocate of the Convention held at Santa Fe, was rejected; as was also, by a vote of ayes 85, noes 90, the substitute (for the original resolutions) that the said Hugh N. Smith, Esq., be admitted to a seat in the House of Representatives as a delegate from New Mexico for the thirty-first Congress, provided that, by such admission, the House is not to be understood as expressing an opinion relative to the conflicting boundary between New Mexico and Texas.

The question was then taken on the resolution of the majority of the Committee of Elections, and which is as follows, viz:

Resolved, That it is inexpedient to admit Hugh N. Smith, Esq., to a seat in the House as a delegate from New Mexico.

This was agreed to—ayes 92, noes 86.

The Committee then rose, and the resolution was reported to the House. Mr. Strong moved the previous question, and

The House adjourned.

Friday, July 19, 1850.

Mr. Bissell of Illinois presented the memorial of Miss Dix, praying an appropriation for the relief of the insane, and he asked that the House would refer it to a select committee. The House acceded to the request, and the memorial was so referred.

Mr. Potter, from the Committee on the Post Office and Post Roads, reported a bill to reduce postage rates.

[The bill proposes that the postage shall be, on letters prepaid, any distance, three cents; not prepaid, five cents. Newspapers, half cent on each when delivered in the State in which they are printed, and out of the State, one cent. Pamphlets and magazines, embracing bound books, two cents for the first ounce, and one cent for each additional ounce. A million and a half of dollars to be appropriated to supply any deficiency which may occur in consequence of the arrangement; and the coinage of three cent pieces authorized.]

The case of Hugh N. Smith was taken up, and after much time wasted in all sorts of motions, the House came to a vote on the motion of Mr. Gorman of Indiana, to lay upon the table the resolution of the majority of the Committee on Elections, declaring it inexpedient to admit Hugh N. Smith as a delegate from New Mexico. It was decided in the affirmative, as follows:

Yeas—Messrs. Alston, Anderson, Ashe, Averett, Bayly, Bocock, Bowdon, Bowie, Boyd, Breck, Albert G. Brown, William J. Brown, Buel, Burt, Cabell, George A. Caldwell, Joseph P. Caldwell, Clingman, Williamson R. W. Cobb, Colcock, Conrad, Daniel, Deberry, Dimmick, Dunham, Edmundson, Alexander Evans, Ewing, Featherston, Gerry, Gorman, Green, Hall, Hamilton, Hammond, Haralson, I. G. Harris, S. W. Harris, T. L. Harris, Haymond, Hibbard, Hilliard, Holladay, Holmes, Howard, Hubbard, Inge, J. W. Jackson, A. Johnson, J. L. Johnson, R. W. Johnson, Jones, Kaufman, Kerr, La Sere, Leffler, Littlefield, Job Mann, Marshall, Mason, McClernand, McDowell, R. M. McLane, F. E. McLean, McMullen, McQueen, McWillie, Meade, Miller, Millson, Morehead, Morse, Morton, Orr, Outlaw, Owen, Parker, Peaslee, Phelps, Powell, Richardson, Robbins, jr., Ross, Savage, Sawtelle, Seddon, Shepperd, F. P. Stanton, R. H. Stanton, Stephens, Strong, Thomas, James Thompson, Toombs, Venable, Walden, Waldo, Wallace, Watkins, Wellborn, Whittelsey, Wildrick, Williams, Woodward, and Young—105.

Nays—Messrs. Alexander, Allen, Andrews, Ashmun, Bennett, Bingham, Bissell, Bokee, Booth, Briggs, Brooks, Burrows, Chester Butler, Thomas B Butler, Cable, Calvin, Campbell, Carter, Chandler, Clark, Cleveland, Cole, Conger, Corwin, Crowell, Dixon, Doty, Duer, Duncan, Durkee, N. Evans, Fitch, Fowler, Freedley, Gentry, Giddings, Gilmore, Goodenow, Gott, Gould, Grinnell, Halloway, Harlan, Hebard, Henry, Houston, Howe, Hunter, Wm. T. Jackson, Julian, G. G. King, J. G. King, J. A. King, Preston King, Horace Mann, Matteson, McGaughey, McKissock, Meacham, Moore, Morris, Nelson, Newell, Ogle, Olds, Otis, Peck, Phœnix, Pitman, Potter, Reed, Risley, Robinson, Root, Rose, Rumsey, Schenck, Schermerhorn, Schoolcraft, Spalding, Sprague, Stevens, Stetson, Sweetser, Taylor, Thurman, Tuck, Underhill, Wentworth, White, Wilmot, Winthrop, and Wood—94.

Mr. Strong moved to reconsider the vote, and to lay that motion on the table; and the question being taken, it was decided in the affirmative—yeas 103, nays 93.

So, by the action of the House, Mr. H. N. Smith was denied admission to the floor as a delegate from New Mexico.

The House then resolved itself into Committee of the Whole on the state of the Union, and took up the report of the Committee on the Memorial of A. W. Babbitt of Deseret. The Committee had reported a resolution that "it is inexpedient to admit A. W. Babbitt to a seat in this body as a delegate from the alleged State of Deseret."

Messrs. Strong, Woodward, Evans, and Brown, addressed the Committee in support of the resolution; Messrs. McDonald and Gentry against it.

Mr. Root replied to Mr. Woodward, and argued in favor of the exclusion of slavery from the Territories, and said that the House would violate good citizenship by refusing a voice to Deseret, to be heard when Congress is about to provide a Government for her. He went for California all alone, and wanted her to stand out in all her pride and dignity as a State, without being clogged with the Fugitive bill, the New Mexico and Utah boundaries, and trash. He said that the Omnibus bill will not give peace, and, if passed, will produce more agitation than was ever dreamed of. Any man from a free State who votes for it will have the seal of condemnation put upon him.

The Committee rose, and the House adjourned.

Saturday, July 20, 1850.

Mr. Strong offered a resolution to close the debate on the resolution against the admission of the delegate from Deseret to-day, at half-past one o'clock.

The resolution was amended, to close the debate at one o'clock to-day, and then adopted.

The House resolved itself into a Committee of the Whole on the state of the Union, and proceeded to the consideration of the special order, being the report of the Committee of Elections, to whom were referred the credentials of Almon W. Babbitt, Esq.

Mr. McDonald had offered an amendment that Almon W. Babbitt be admitted as a delegate from Deseret for the thirty-first Congress.

The hour of one, to which the debate was limited, arrived, when

Mr. Strong, the Chairman of the Committee of Elections, who reported the resolution before the House, answered the arguments which had been advanced in favor of the admission of Mr. Babbitt.

The resolutions and pending amendments were read.

All the amendments having been rejected, the Committee rose, and the resolution which had been under consideration was reported, as follows:

Resolved, That it is inexpedient to admit Almon W. Babbitt, Esq, to a seat in this body as a delegate from the alleged State of Deseret.

Mr. Strong moved the previous question.

Mr. Gorman moved to lay the resolution on the table; and the question being taken, it was decided in the affirmative—yeas 104, nays 78.

Mr. Strong moved a reconsideration of the vote, and at his instance the motion was laid on the table.

So Mr. Babbitt has been denied a seat as a delegate from Deseret.

The House then adjourned.

Monday, July 22, 1850.

Mr. Olds asked leave to offer a joint resolution to adjourn both Houses on the 28th of August; but the Speaker ruled it out of order, as a motion to suspend the rules was pending. The House then suspended the rules and proceeded to dispose of the bills on the Speaker's table. Executive message, bills from the Senate, &c., were taken up and appropriately referred. The bill for the establishment of a Branch Mint in New York was referred to the Committee of the Whole on the state of the Union.

A resolution from the Senate, authorizing the Committee on Public Buildings to act conjointly with the like committee in the House, in relation to an enlargement of the Capitol, was agreed to.

The House adjourned.

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[CONTINUED FROM FIRST PAGE.]

troops, *by a mock trial*, from punishment for any murders which they should commit on the inhabitants of these States."

According to Blackstone, the right to a trial by jury had been held, "time out of mind," to be the birthright of Englishmen. The 29th chapter of the Great Charter guarantied this right, not only in cases of liberty, life, and limb, but in cases of property, real and personal.

In England, it has become a traditional saying, and drops from the common tongue, that the great object of King, Lords, and Commons, is to get twelve men into a jury box.

Judge Story says, "When our more immediate ancestors removed to America, they brought this great privilege with them, *as their birthright and inheritance*, as a part of that admirable common law which had fenced round, and interposed barriers on every side, against the approaches of arbitrary power. It is now incorporated into all our State Constitutions, as a fundamental right; and the Constitution of the United States would have been justly obnoxious to the most conclusive objection, if it had not recognised and confirmed it in the most solemn terms."—3 Com., 652–3.

Is it conceivable, then, that the heroes and sages of the Revolution, who rose in resistance to the most formidable Power on earth; so many of whom rose against their own kindred in the mother country, because they loved liberty better than father or mother, or brother or sister, and who endured the privations and horrors of a seven years' war,—is it conceivable, I say, that, when they had achieved their independence, and there was no longer any earthly power to control them, they should have framed a fundamental law, and should not have imbued that law with the "*spirit*" of the trial by jury, as its breath of life? As British subjects, they were entitled to this trial. As Americans, did they renounce it? Did they wage war for seven years in order to place themselves in a worse condition than they had been placed in by their "tyrant?" Mr. Webster says they did. He charges this infinite folly and blindness upon them singly and collectively, one and all.

DECISIONS OF THE SUPREME COURT.

But, to examine more particularly the phraseology of the seventh amendment. What is the true meaning of those descriptive words, "suits at common law?" Has not Mr. Webster, relying on his high reputation, disposed of this matter a little too summarily? He says, "the Constitution declares that in suits at common law, the trial by jury shall be preserved;" but he adds, "the reclaiming of a fugitive slave is not a suit at common law."

But the Supreme Court of the United States has furnished us with an authoritative interpretation of the words of the Constitution bearing on this subject. In the case of *Cohens* vs. *Virginia*, 6 Wheaton R., 407, they define what is meant by a "suit." These are their words:

"What is a *suit?* We understand it to be the prosecution, or pursuit, of some *claim*, demand, or request. In law language, it is the prosecution of some demand in a court of justice. 'The remedy for every species of wrong, is,' says Judge Blackstone, 'the being put in possession of that right whereof the party injured is deprived.' The instruments whereby this remedy is obtained, are a diversity of *suits* and actions, which are defined by the Mirror to be 'the lawful demand of one's right;' or, as Bracton and Fleta express it, in the words of Justinian, '*jus prosequendi in judicio quod alicui debetur*.'—(the form of prosecuting in trial, or judgment, what is due to any one) Blackstone then proceeds to describe every species of remedy by suit; and they are all cases where the party suing claims to obtain something to which he has a right.

To commence a suit, is to demand something by the institution of process in a court of justice; and to prosecute the suit, is, according to the common acceptation of language, to continue that demand."

According to the Supreme Court, then, a *suit* is the prosecution of some *claim*, demand, or request. But the proceedings for a fugitive slave, according to the very letter of the Constitution, are instituted to prosecute a *claim*. The person held to service or labor is to be delivered up, "on *claim* of the party to whom such service or labor may be due."

Still further, in a decision bearing directly on the right to a trial by jury, the Supreme Court have defined the term "common law" in special reference to its meaning in the amendment to the Constitution, which secures this right "in suits at common law." These are their words:

"It is well known, that in civil causes, in courts of equity and admiralty, juries do not intervene; and that courts of equity use the trial by jury only in extraordinary cases, to inform the conscience of the court. When, therefore, we find that the [7th] amendment requires, that the right of trial by jury shall be preserved in suits at common law, the natural conclusion is, that this distinction was present to the minds of the framers of the amendment. By *common law* they meant, what the Constitution denominated in the third article 'law;' not merely suits, which the *common* law recognised among its old and settled proceedings; but suits, in which *legal* rights were to be ascertained and determined, in contradistinction to those in which equitable rights alone were recognised, and equitable remedies were administered, or in which, as in the admiralty, a mixture of public law, and of maritime law and equity, was often found in the same suit. Probably there were few, if any, States in the Union, in which some new legal remedies, differing from the old common law forms, were not in use; but in which, however, the trial by jury intervened, and the general regulations in other respects, were according to the course of the common law. Proceedings in cases of partition, and of foreign and domestic attachment, might be cited, as examples variously adopted and modified. *In a just sense, the amendment, then, may well be construed to embrace all suits, which are not of equity or admiralty jurisdiction*, WHATEVER MAY BE THE PECULIAR FORM WHICH THEY MAY ASSUME TO SETTLE LEGAL RIGHTS."—*Parsons* vs. *Bedford*, 3 *Peters's Rep.*, 456–7.

The last sentence I have underscored. In this sentence, the Supreme Court plainly say, that, if the subject-matter of the litigation, or the object of the proceeding, be to determine a "legal right" which was formerly determined by a "suit at common law," then such proceeding is embraced in the seventh amendment, and either party in interest has a right to the trial by jury. Now, is it not clear that any proceeding which determines whether a man owns himself, or is owned by another man, and which delivers one man into the custody of another, as his slave, or refuses so to deliver him, is, "whatever peculiar form it may assume," a proceeding "to settle a legal right,"—the highest legal right? It is not a right in equity, in admiralty, or under the maritime law; but strictly and exclusively a *legal right*, and nothing else. According to the doctrine of the Supreme Court, then, in the above cited case, the parties to such a proceeding have a right, under the seventh amendment, to a trial by jury. At least, is not such the "*spirit*" of the amendment?

But there is another well-known fact, which gives pertinence and stringency to the above view. At common law, the writ *de homine replegiando*,—the writ of personal replevin, or for replevying a man,—was an original writ; a writ which the party could sue out, of right; one to be granted on motion, without showing cause, and which the Court of Chancery could not supersede. It was, according to the very language of our Supreme Court, recognised by the common law "among its old and settled proceedings." The form of it is found in that great arsenal of common law writs, the *Registrum Brevium*. A man, says Comyn, may have a *homine replegiando* for a negro; or for an Indian brought by him into England and detained from him; or it may be brought by an infant against his testamentary guardian; *or by a villein against his lord*. (Dig., Title Imprisonment, L. 4)

If it could be brought by a villein against his lord, then it was the very writ for an alleged slave against an alleging owner. It was the mode provided by the common law for the determination of the *legal right* asserted in a human being. I have always understood that, before the Revolution, and before the framing of our Constitution, Comyn's Digest was a work of the highest authority. It must have been well known to all the lawyers in the Convention. Did they expect, then, that when an alleged slave, or a known freeman, should be seized, that he should be hurried into bondage without any right to this ancient muniment of the subject's liberties?

But "the reclaiming of a fugitive slave," says Mr. Webster, "is not a suit at the common law." The proceedings provided for by the statute of 1793, to which he "sees no objection," have no analogy to the writ *de homine replegiando*. But can you destroy the right to a jury trial by changing the process? A sand-hiller from Georgia or North Carolina, cannot come to Massachusetts and eject Mr. Webster from his Marshfield farm, without being compelled to submit the question of title to a jury. But suppose Congress should say, in effect, that any one of the seventeen thousand postmasters in the United States might be brought into Massachusetts, (and, among so numerous a body, it is no libel to say there are some reckless men,) and that the said sand-hiller might go before the said imported postmaster, and after proof "to his satisfaction," "either by oral testimony or by affidavit,"—an affidavit, be it remembered, taken anywhere in the United States,—then the claimant shall be put into immediate possession of the said farm, with a right to recover costs; and suppose Mr. Webster should spurn the authority of this illegitimate Court, and demand an observance of the ancient forms of law, and a trial by jury under the seventh amendment; then the claimant has only to borrow Mr. Webster's own words, and say, "this is not a suit at the common law:"—suppose all this, I say, and I would then ask if such a proceeding would be satisfactory to the last-named gentleman? The common sense of mankind is authority good enough to answer such a question, but we have high legal authority in addition.

In *Baker* vs. *Riddle*, Mr. Justice Baldwin, one of the judges of the Supreme Court of the United States, held that it was not in the power of Congress to take away the right of trial by jury, secured by the seventh amendment, neither,—"1. By an organization of the courts in such a manner as not to secure it to suitors;" nor,—"2. By authorizing the courts to exercise, or their assumption of, equity or admiralty juris- any infringement by any department of the Government."—*Baldwin's Rep.*, 404.

Now, what was Mr. Butler's bill, but "a new organization of the courts," or, rather, a new creation of some twenty thousand courts," in such a manner as not to secure [the right of trial by jury] to suitors?" It was, indeed, a violation of both of the principles laid down by Judge Baldwin. It was the creation of tribunals unknown to the common law, and authorizing those tribunals to decide upon rights not belonging to either "equity or admiralty jurisdiction."

In this connection, I will refer to the case of *Lee* vs. *Lee*, 8 *Peters's Rep.*, 44.

By act of Congress, of April 2, 1816, it was declared that no cause should be removed from the Circuit Court of the District of Columbia to the Supreme Court, by appeal or writ of error, "unless the matter in dispute shall be of the value of one thousand dollars or upwards." The plaintiffs in error were claimed as slaves. Their petition for freedom in the court below had been decided against them; and from this decision they appealed. The defendant in error took the objection that they,—their bodies and souls,—were not worth one thousand dollars, and therefore that they had no right to appeal. But the court said:

"The matter in dispute, in this case, is the freedom of the petitioners. The judgment of the court below is against their claims to freedom; the matter in dispute is, therefore, to the plaintiffs in error, the value of their freedom, *and this is not susceptible of a pecuniary valuation*. Had the judgment been in favor of the petitioners, and the writ of error brought by the party claiming to be the owner, the value of the slaves as *property* would have been the matter in dispute, and affidavits might be admitted to ascertain such value. But affidavits estimating the value of freedom are entirely inadmissible; and no doubt is entertained of the jurisdiction of the court."

Now, if the Supreme Court of the United States, in construing a law, felt constrained by their oaths to hold the freedom of a man,—of any man, though he might be a drivelling idiot, or stretched upon his deathbed, with only another hour to breathe,—to be worth more than a thousand dollars, how can a Senator of the United States say, that in passing a law, under which human liberty may be retained or lost, he is not bound at least by the "*spirit*" of the Constitution, if not by its letter, to hold that human liberty to be of greater value than twenty dollars, and therefore to provide the trial by jury for its protection? What can prove more strikingly that Mr. Webster violates the whole "*spirit*" of the Constitution, when the framers and ratifiers of this amendment covenanted for and decreed the trial by jury, for such a paltry sum of money; and when the judges of the Supreme Court held human liberty to be worth more than any nameable sum of money, while he regards it as a thing to be disposed of by any corrupt postmaster which any corrupt Administration may corruptly appoint. Yet he says: "Nothing can be more false than that a jury trial is demanded in cases of this kind by the Constitution, either in its letter, *or in its spirit*."

DOGMATIZING.

I wish I could find, or felt at liberty to coin some milder word; but for want of a better, I must say that Mr. Webster seems to me, throughout this whole matter, to *dogmatize*. He makes strong assertions without offering even weak reasons. Of this character was his annunciation of the discovery of a new law,—"the law of physical geography,"—which was to suspend moral agency, and take from man his power to commit crime against his brother; as though in ascending hill-sides, freedom and slavery lie in different atmospherical strata, and are bounded by each other impassably; as though there were any mountain so "exceeding high," to whose top even Jesus Christ could go, that Satan could not go there to tempt him. This does not strike the common mind like a true discovery; like the law of gravitation, for instance, discovered by Newton, or the existence of the planet Neptune, by Leverrier. It is rather like that earliest pretended discovery on record, which was designed to seduce, and did seduce, the first parents of us all. *Ye may eat of the forbidden tree, for ye shall* NOT *surely die.* So Mr. Webster says, Let slaves be driven in coffles, or carried in ships' holds to the new Territories; they cannot live there. Will not the results of the two experiments bear a lively analogy to each other, and be likely to reflect similar credit upon their authors?

So, too, when he tore some of the brightest pages from the New Testament, by proclaiming that "there is to be found no injunction against that relation [of slavery] between man and man, in the teachings of the Gospel of Jesus Christ, or of any of his Apostles"! Upon how many Christian hearts did this sentiment fall like an anathema against all truth. He does not say any *express* injunction, but "no injunction;"—none of any kind. No *positive* injunction against slavery in the New Testament!—a book designed to regulate our life and condition for two worlds; yet, altogether, not so large as many a Congressional report; less voluminous than the ordinances of many of our city governments;—a book, therefore, which, from the necessity of the case, must deal with great and immortal principles, and could not descend into specification and detail;—and because such a book as this contains no *express* injunction against slavery, therefore slavery is not forbidden by it, but has the implied approval of its silence! Never was there a more sinister, unsound, unchristian argument uttered by infidel or pagan. Is there any *express* injunction "in the teachings of the Gospel of Jesus Christ, or of any of his Apostles," commanding us to declare the African slave trade piracy? Is there any *express* injunction "in the teachings of the Gospel of Jesus Christ, or of any of his Apostles," against cannibalism? Do they anywhere say, "Ye shall not eat one another?" Yet what enormity and flagitiousness would it be to infer, that, therefore, men and women may turn Ogres and Ogresses, and eat human flesh as they do mutton and beef. The inference in the latter case is every whit as warrantable, as sound, as in the former. Yet I consider that this theological argument does not violate the "spirit" of the Gospel, any more than his constitutional argument violates the "spirit" of the Constitution. John Wesley, who had lived amid slavery, denominates it the "sum of all villanies," and if Christ came into this world and left it, without permeating and saturating all his teachings with injunctions against the injustice, cruelty, pride, avarice, lust, love of domination, and love of adulation, which are the inseparable accompaniments of slavery, then I think the Christian world will cry out, that, so far as this life is concerned, his mission was substantially fruitless.

"Oh, star-eyed Science! hast thou wandered there,
To bring us back these tidings of despair?"

So if the Constitution of the United States contains not even any *implied* security for the liberty of all the colored population in the free States and Territories, and for the trial by jury as the only adequate means of securing that liberty, then would it not be more creditable to its framers never to have put their signatures to it?

LIBERTY OF THE CITIZENS MORE VALUABLE THAN THEIR LIFE OR PROPERTY.

The fifth article of amendment declares that "no person shall be deprived of life, liberty, or property, without due process of law." The commentators say that these words, "due process of law," are the equivalent of the phrase "the law of the land," in the 29th chapter of Magna Charta; and hence that "this clause in effect affirms the right of trial according to the process and proceedings of the common law;" that is, by jury. See Story's Comm., 661; 2 Inst., 50, 51; 2 Kent's Comm., 10; 1 Tucker's Black. App, 304.

Now, consider that the general right of trial by jury, in cases of *life*, was expressly secured by the Constitution as originally adopted; that, somewhat more than three years afterwards, the same right was expressly secured for *property*, in suits at common law, whenever the value in controversy should exceed twenty dollars; and then say whether there is not the strongest implication in favor of the same right, in cases of human liberty, which is so much more precious than life and property combined. I do not here say it is an implication that binds the courts in administering a law; that is not the point under discussion. But is it not an implication that binds the legislator, so that when legislating on the subject, he cannot conscientiously and wilfully abandon it without infidelity to his oath? I do not believe that many men from the free States will ever be found in Congress who will not take this view of the subject. Indeed, not a few of the best lawyers and jurists have held that the implication binds the courts; and therefore, that the statue of 1793 is unconstitutional.*

Mr. Webster treats the two cases, of fugitives from justice and fugitives from service, alike; although one can almost adopt his own language, and say that "nothing is more false" than that they are alike. In regard to the first class, the Constitution says, a person "*charged*" with treason, &c.; but in regard to the second class, it says no person, "*held*," &c.

According to the obvious intent of this language, the alleged fugitive must be *proved* to be *held, bound, obligated*. It is not enough that he be *charged* to be "held" to service, though it is enough that a man be "*charged*" with crime. To bring the first case within the legal category of the second, its terms should be "a person *guilty* of treason," &c., shall be delivered up. Were such the phraseology, would any one doubt that proof of guilt should precede delivery, and that there could be no other foundation for it?

Mr. Webster says, "perhaps the only insuperable difficulty" to a trial by jury, "has been created by the States themselves." Suppose this to be so, I would ask whose duty is it to act first,—that of Congress to provide the trial, or that of the States to remove the impediment? Shall the States repeal their laws first, and leave the liberty of the citizens in jeopardy; or shall not Congress legislate first, and secure that liberty? Which is of the greater importance, that the owner should recover his slave, or that the citizen should retain his freedom? I answer according to the language which the criminal law uses respecting guilt and innocence, that it is better that nine hundred and ninety-nine, that is, an indefinite number, of slaves should escape, than that one free man should be delivered into bondage.

Besides, I think no State legislated on the subject for the protection of its own citizens, until 1842. This was after Congress had neglected for more than fifty years to do its duty. Why, then, should Mr. Webster cast the blame upon the States which forbore for more than fifty years to act protectively for themselves, when Congress, of which he had been a leading member for nearly forty years, had endangered, instead of securing, the liberty of their citizens? When he said that "every member of every Northern Legislature is bound by oath to support the Constitution of the United States," why did not the retort suddenly rise to his mind that he was bound by oath not less than they; and that his oath embraced the men that owned freedom, not less than the men that owned slaves? Besides, he charges only a *part* of the free States with being guilty of unjust legislation. Shall the innocent States suffer because of the others' offence? Rather shall not Congress first supply the means of protection to the citizens of all?

It seems to me, too, that the fourth amendment has an important "bearing upon the subject," because it shows that the master-thought of our fathers, in forming the Constitution, was to secure the liberties of the citizen. It provides against "unreasonable seizures" of "persons." I suppose the main idea of this amendment was to secure the citizen against "unreasonable seizure," even in cases where he should afterwards, and at *some time*, be brought to trial according to the forms of the common law. But what "seizure" can be more "unreasonable," than one whose object is, not an ultimate trial, but bondage forever, without trial? Can mortal imagination conceive of any seizure less entitled than this to be called "reasonable?" With what indignation did our fathers frown because they were transported beyond seas *to be tried*; yet, by our present law, and by the law which Mr. Webster promises to support, a free man may be transported, if not beyond seas, at least beyond lands, and beyond States, *not to be tried*, but to be held in slavery forever without trial. If a free citizen of Massachusetts should be seized and plunged into a Massachusetts prison, to be kept there for life; and his children, as a consequence of his fate, were put into the same, or into other prisons, as fast as they were born, to be also kept for life; and such was the original object and avowed purpose of the seizure, would not this conflict a little with the "*spirit*" of the fourth amendment? And does this proceeding conflict with this "*spirit*" any the less, because the prison is a Southern rice swamp, or cotton field, where the nearest door or outlet of escape is more than a hundred miles from the spot of confinement? In common law actions, trover, detinue, replevin, &c., &c., the trial is to be in the vicinage, except there is some overpowering reason for changing the venue, or place of trial. But here is a transfer of the party, not for a trial, but for evading a trial.

I submit, then, to the public, that here are three provisions of the Constitution, each one of which does have "a bearing on the subject." Each strengthens the other. They form a triple implication, if not a *trinoda necessitas*, which no man, however powerful he may be, can break.

The argument which the lawyers call *ab inconvenienti*,—the argument from inconvenience,—has been pressed into the service of the slaveholder to endanger the liberties of the citizen. I answer, there are two sides to this argument; nor was it wise in the slaveholder, or his Northern friends, to name it. It seems to me quite as *inconvenient* for a free man to lose his liberty, as for a slaveholder to lose his slave. If a Southern man sues a Northern one for the value of a bale of cotton or a barrel of rice, must not the plaintiff await the next term of the court before he can enter his action, abide by the rules of the court respecting continuances, and submit to the order of business in taking his turn before a jury? To obviate this inconvenience, has any legislature or any court ever proposed to set aside or annul, at once, all the securities by which we hold property and life? And how stands the question respecting evidence or proof? If difficult for a slave-claimant, from Texas, to prove title to his slave in Massachusetts, how infinitely more difficult for a citizen of Massachusetts to prove title to himself in Texas. But Mr. Webster says there are independent courts at the South, "always open and ready to receive and decide upon petitions or applications for freedom." Suppose this to be true; how is a man or a woman, whose master knows that he or she is free, to get to the courts? Mr. Webster seems to think that as soon as a kidnapping slave-dealer shall transport his human prey to the South, he will at once take him to, or allow him to go before a court of justice, or will sell him to some brother Samaritan who will do so. Does not everybody know that any man, who is capable of the enormous guilt of seizing or buying a freeman, will chain, and scourge, and starve and mutilate that freeman, if he but so much as open his lips in audible prayer to God for the restoration of his birthright?

Mr. Webster says, persuasively, that the alleged slave "is only remitted, for inquiry into his rights, to the State from which he fled." But suppose he had never "fled;" but was demeaning himself as a peaceable citizen, under the solemnly pledged protection of the Government, on the soil where he was born! This is the false idea that underlies the whole of Mr. Webster's seductive letter, that under such a bill as Mr. Butler's, nobody but a slave would ever be arrested.

I have no doubt that what Mr. Webster says about Southern courts being "fair and upright," is very generally and extensively true; but I have had a little personal knowledge of Southern courts, and I have no hesitation in saying that there has been one, at least, before which, if a slave were suing for his freedom, and any popular clamor against him should exist, he would have no more hope of obtaining his liberty through the "fairness" of the court, than, if thrown overboard in the middle of the Atlantic ocean, he would have of saving his life by swimming ashore.

MASSACHUSETTS PRINCIPLES, THOUGH RIDICULED, YET RIGHTEOUS.

Mr. Webster holds Massachusetts up to the ridicule of the world, because she "grows fervid on Pennsylvania wrongs;" and he has deemed it his duty to inquire how many seizures of fugitive slaves have occurred in New England within our time. Is this the Christian standard by which to estimate the evil of encroachments upon the most sacred rights of men? If I repose in contentment and indifference, because my own section, or State, or county, is as yet but a partial sufferer, why should I not continue contented and indifferent while I myself am safe? In providing for the liberties of the citizen, under a common Government, I think Massachusetts worthy of all honor, and not of ridicule, because she does "grow fervid on Pennsylvania wrongs," and on the wrongs of an entire race, whether in Pennsylvania or California, or anywhere within the boundaries of our own country. I see no reason why my sympathies as a man, or the obligations of my oath as an officer, in regard to the nearer or the remoter States, should be inversely as the squares of the distances. Even with regard to foreign countries, did Mr. Webster think so, in those better days, when his eloquent appeal for oppressed and bleeding Greece roused the nation, like the voice of a clarion? Did Mr. Webster deem it necessary to make inquisitions through all the New England States, to learn how many Hungarian patriots they had seen shot at the tap of drum, or how many noble Hungarian women had been stripped and whipped in their market-places, before he thrilled the heart of the nation, at the wrongs of Kossuth and his compatriots, and invoked the execrations of the world upon the Austrian and Russian despots? I see no difference between these cases, which is not in favor of our *home interests*, of our own *domestic rights*, except the difference of their bearings upon partisan politics and Presidential rivalries. Mr. Webster quotes and commends Mr. Bissell, who said that those Southern States which had suffered the least from loss of slaves made the greatest clamor. That statement of a fact was well put by Mr. Bissell; but was it well applied by Mr. Webster? In the statement, it was a question as to the loss of property. In the application, it is a question as to the loss of liberty. The latter is not, therefore, the "counterpart" of the former. Blindness to the distinction between the value and the *principle* of property, and the value and the *principle* of liberty, could alone have permitted the comparison.

CONCLUSION.

But I have extended this communication greatly beyond my original purpose. Several other topics contained in Mr. Webster's speech, or growing out of what has since happened in relation to it, and hardly less important than those already considered, must await another opportunity for discussion; unless, indeed, some disposal of the question shall render further discussion unnecessary.

I am not unmindful of the position in which I stand. I am not unaware that circumstances have placed me in an antagonist relation to a man whose vast powers of intellect the world has long so vividly enjoyed and so profoundly admired. I well know that a *personal* contest between us seems unequal, far more than did the threatened contest between the Hebrew stripling and the champion of the Philistines, who had a helmet of brass upon his head, and greaves of brass upon his legs, and the staff of whose spear was like a weaver's beam. But the contest is not between *us*. It is between truth and error; and just so certain as the spirit of Good will prevail over the spirit of Evil, just so certain will Truth ultimately triumph. In such a case as this, there is one point of view in which Mr. Webster is a desirable antagonist; for not fail to expose, to other eyes than his own, the devious path into which he has now wandered.

HORACE MANN.

WASHINGTON, *June* 6, 1850.

NOTES.

Another edition of the preceding communications having been called for, I avail myself of the opportunity it presents, to add a few notes.

I had hoped not to be required to say more on this subject; but, during the past week, Mr. Webster has issued, in a pamphlet form, a speech made by him, in the Senate, on the 17th ult., accompanied by his letter to some gentlemen on the Kennebec river, dated on the same day. In this letter, Mr. Webster has referred to me again; and he seems to have given himself full license to depart from all the rules of courtesy belonging to a gentleman, and to disobey the obligations of truth, belonging to a man. The angry and reproachful language, in which he has now indulged himself, releases me from all further obligation to treat him with personal respect. Yet I intend not to avail myself of the release. I confess that my habit of looking up to him with political deference and regard, had become so inveterate, that it will require at least another volley of his insults to break it. Under present relations, however, I feel at liberty to use considerable plainness of speech.

For perspicuity, I shall arrange what I have to say, under distinct heads.

1. MR. WEBSTER'S TRIPLE FALSIFICATION OF A PLAIN MATTER OF FACT.

At the first onset, Mr. Webster charges me with an act which, if true, wounds my character deeply, as an honorable man; but, if untrue, destroys his. It is untrue. To give plausibility to his charge, he resorts to the following threefold falsification of a plain matter of fact. In professing to quote from his 7th of March speech, he has suppressed what he did say; he has introduced what he did not say; and he has then applied my criticism, not to his original sentiment on which it was made, but to the counterfeit one which he has surreptitiously put in its place.

In his 7th of March speech, Mr. Webster said, "I would not take pains to re-affirm an ordinance of Nature, nor to re-enact the will of God." This was the sentiment I criticised. It appears in these words, in the *National Intelligencer*, in the *Union*, in the *Republic*, in the *Globe*, and in the pamphlet edition which he dedicated to the people of Massachusetts. But in his Kennebec letter, in order to take away the ground of my criticism, he has interpolated a word into the above sentence, which changes its whole meaning. Pretending to quote himself, he says, "I would not take pains USELESSLY to re-affirm an ordinance of Nature, or to reënact the will of God." By foisting in the word which I have underscored, he changes the entire character of the sentiment advanced. As now stated, nobody can dissent from it; for who would announce, in a distinct proposition, that he would *uselessly* do anything? As originally stated, nobody can assent to it. This perversion is not only false towards me, but it contains a latent confession that he knew he was wrong. Else why did he make the alteration? Why did he think the surreptitious changing of his doctrine to be a less evil than the acknowledgment of it as originally avowed? Had he quoted his original false sentiment truly, the world would have seen that I was right; but in his dilemma, he interpolated a true sentiment falsely, in order to prove that my criticism, on such a sentiment, was wrong. He expunges the original sentiment on which my criticism was made; he forges an opposite sentiment, to which no one would ever object; and then he applies my criticism made on the expunged sentiment, to his counterfeited substitute.

I shall not venture to define or describe a proceeding like this, in words of my own. I trust, as yet, that I obey the apostolic injunction, and possess my soul in patience; and it will take at least another discharge from his battery of wrath to provoke a fitting retort. I may be permitted, however, to use a sentiment uttered by himself, to show how he has condemned himself. In the same connection, Mr. Webster advanced the following idea: "I know no passion more appropriate to devils than the passion for gross misrepresentation and libel." Can any mortal specify a grosser instance of "gross misrepresentation and libel" than when one of the parties to a public discussion has uttered an obnoxious sentiment, and when this sentiment has met with very general reprobation, and when, in the progress of the discussion, the guilty party professes to restate the case, that he should then expunge the false sentiment he originally advanced, foist a trite and common-place one in its stead, and then apply a criticism made on the suppressed sentiment to the forged one? Is it not as palpable a case of alteration, as to change the date of a note of hand in order to take it out of the statute of limitations, or to obliterate the description of the premises in a deed, and put a more valuable estate in its place? This proceeding is worse, if possible, than the former "misrepresentation and libel" of my argument and myself, contained in the Newburyport letter. But the subject is painful, and I leave it.

2. MR. WEBSTER'S RIDICULOUS CLASSICAL BLUNDER.

It affords me great relief to turn from this to the next topic in Mr. Webster's Kennebec epistle. The severity of moral judgment which must be passed upon his fabricated quotation and the use he made of it, is here turned into mirth by one of the most ridiculous classical blunders, that has been made since Lord Kenyon called Julian "the Apostle."

Mr. Webster says: "In classical times, there was a set of small but rapacious critics, denominated *captatores verborum*, who snatched and caught at particular expressions; expended their strength on the *disjecta membra* of language; birds of rapine which preyed on words and syllables," &c., &c.

May I most respectfully ask Mr. Webster on what authority he says there was, "in classical times," any such "set" of "small but rapacious critics" as he here speaks of,—or exemplifies? In my ignorance, I have always supposed the "*captator*" of classical times, to be a kind of "genius" the very opposite of what Mr. Webster describes. Horace, Juvenal, and Livy, represent him as a selfish, sycophantic gift-seeker, or fortune-hunter; not a twister, torturer, or interpolator even, of words and phrases. He was rather a man who managed to get his living out of other folks. His acts and tricks served the purpose of a prehensile organ, such as the finger-like appendage of an elephant's proboscis, by which to pick other men's pockets. The accompanying words, descriptive of his filchings, were not *torve, ringi*, and so forth; but *callide, blande*, or *blandicule*. If *captator* meant a cavilling, cynical critic, then *captatrix* should mean a scold, a vixen, or virago; but its true meaning was "a fawning gossip," or "mean flatterer." In our days, the equivalent or *fac simile* of the classical *captator*, would be the man who coaxes other people to accept his bills, or endorse his notes, or lend him minute-money, *and then never pays*; or the man who gets life-settlements for supporting class interests, and so brings odium on their unquestionable merits. No mistake could be greater than that the old *captatores* "expended their strength on the *disjecta membra* of language," or "gorged themselves with the garbage of phrases, chopped, dislocated, and torn asunder, by themselves." On the contrary, they were "gentle as a sucking dove." Their "*disjecta membra*" rather resembled outlawed promissory notes, protested drafts, overdrawn bank accounts, unpaid scores to shopmen, &c. There was nothing like the harpy about them, as Mr. Webster seems to suppose, in this remarkable description of his, which is as rhetorically unsavory as it is classically untrue. What malignant sprite could have been at Mr. Webster's elbow when he penned this wrathful paragraph, and suggested to him a word pregnant with such unutterable associations!

So far from there being any "set" of critics, in classic times, denominated and known as *captatores verborum*, I doubt whether even the abstract noun "*captatio*" occurs half a dozen times, in all the classics, in connection with the genitive of his pretended appellation. He could hardly have made a greater or more ludicrous mistake. It is exceedingly to be regretted, after the numerous instances we have lately had of Mr. Webster's bad logic, and bad humanity, and bad discoveries of natural law, that he should now offend the classical taste of the country, and bring discredit upon the New England colleges, by his bad Latin. This whole anti-classical paragraph about "*disjecta membra*," and "chopping," and "gorging," and "uncleanness," is an unclean conception of his own; not a pure but an impure invention; not intellectual but epigastric in its origin.

3. MR. WEBSTER'S ERRONEOUS GEOGRAPHY, AND HIS FALSE CITATION OF AUTHORITIES.

Mr. Webster's geographical statements on this subject are worthy to be placed side by side with his classical. He says, the extent of New Mexico, north and south, on the line of the Rio Grande, "can hardly be less than a thousand miles." This makes a little more than *fourteen* degrees of latitude. Now, as its northern boundary is in 42°, its southern must be as low as 28°. This is *four* degrees below El Paso del Norte. Yet Mr. Webster, on the 13th of June last, declared himself in favor of fixing the northern boundary of Texas at or near El Paso, and more than four degrees of latitude north of what he here says is the southern boundary of New Mexico. He also supported that part of the Compromise bill which proposes to give Texas, not only these four degrees of latitude, but money also, for taking what, as he now says, belongs to New Mexico and the United States. How can these views stand together? If slavery could ever exist "in California or New Mexico."—P. 42. He now defines the southern boundary of New Mexico. It can hardly be less, says he, than "a thousand miles" from the forty-second degree of north latitude. This places it four degrees south of El Paso. He is in favor of that part of the bill which gives these four degrees to Texas. According to him, therefore, should Texas get possession of these four degrees of what is now New Mexican territory, slavery will exist, as far up as the old southern boundary line of New Mexico, by virtue of the laws of Texas; but beyond this line, although within the bounds of Texas, it will not exist, because forbidden by the "will of God." Hence the extraordinary spectacle will be exhibited, of the existence of slavery coming plump up to the south side of an imaginary line, by the laws of Texas, while on the north side of the said imaginary line, its existence will be cut square off by the "will of God," although both sides are within the same political jurisdiction. This will be a miracle, compared with which the supposed miraculous preservation of the Jewish feature and complexion, for two thousand years, will be unworthy to be mentioned. It remains to be seen, however, whether this miracle will be vouchsafed to Mr. Webster, as a proof of the Divine favor.

On the 5th of June, Mr. Webster voted against incorporating the "Proviso" into the Governments for New Mexico and Utah, because slavery was already prohibited there by "Asiatic scenery" and the law of "physical geography." On the next day, too, he voted against the following amendment offered by Mr. Walker: "And that peon servitude is forever abolished and prohibited." Whether he so voted because this species of slavery, (which is an existing institution at the present time,) was prohibited by "scenery" and "geography," does not appear.

But on the 17th of June, Mr. Webster, in the Senate, suggested a qualification of his doctrine as laid down on the 7th of March, viz: that "every foot of territory of the United States has a fixed character for slavery." An uncertainty as to the boundary line between New Mexico and Texas, gave rise to this qualification. "Let me say to gentlemen," said Mr. Webster, "that if any portion which they or I do not believe to be Texas, should be considered to become Texas, then, so far, that qualification of my remark is applicable."—(*Cong. Globe*, 31st Cong., 1st sess, p. 1239) That is, if the Compromise bill should so establish the boundary line between New Mexico and Texas, as that "any portion [of New Mexico] which they or I [other gentlemen or Mr. Webster,] do not believe to be Texas, should be considered to become Texas," then, as Texan territory, it might lose its "fixed character," and become slave territory, notwithstanding the "ordinance of Nature" and the "will of God." But, strange to say, on this same 17th of June, the Kennebec letter was written, which carries the southern boundary of Mexico, on the east side of the Rio Grande, four degrees below El Paso, and, of course, includes all that region within New Mexico, and therefore within the "ordinance of Nature" and the "will of God!" So that, after all, he acknowledges that the "ordinance of Nature" and the "will of God" may be overridden by the laws of Texas.

But his citation of authorities is among the most surprising of all his aberrations from fact. He first quotes Major Gaines, who, as he says, "traversed a part of this country during the Mexican war." By "this country," I suppose he means New Mexico. If he does not mean New Mexico, then the citation has no relation to the subject. If he does mean New Mexico, then he asserts what is not true. Major Gaines did not go within four or five hundred miles of New Mexico, during the war; and if the quotation from him was designed to create the belief that, in what Major Gaines said, he was speaking of New Mexico, it was as gross an imposition as could well be made.

The next citation is from Colonel Hardin. Two sentences are taken. I transcribe the first with Mr. Webster's italics.

"*The whole country is miserably watered; large districts have no water at all The streams are small, and at great distances apart.* One day we marched on the road from Monclova to Parras, *thirty-five miles, without water*; a pretty severe day's march for infantry."

And what country does this describe?

"From Monclova to Parras, thirty-five miles!" says Colonel Hardin. And where is Monclova? Away down south in Coahuila, hundreds of miles from any part of New Mexico.

I submit the following notes, one from the Colonel of the regiment in which Mr. Gaines was a major; and the other from a major in the regiment of which Mr. Hardin was Colonel.

HOUSE OF REPRESENTATIVES, *June* 27, 1850.

SIR: In reply to your note of this date, I state that Major Gaines did not, during the Mexican war, travel through any part of New Mexico. Major Gaines entered Mexico at Camargo, on the Rio Grande; was engaged near Saltillo, until he was captured and taken to the city of Mexico; and thence he returned to the United States, by the way of Vera Cruz.

I am, sir, very respectfully, &c.,

HUMPHREY MARSHALL.

P. S. In reply to your verbal inquiry, whether Colonel Hardin was in New Mexico, I state, that Colonel Hardin was attached to General Wool's command, and passed from San Antonio de Bexar, by the Presidio de Rio Grande, Monclova, and Parras, to Saltillo; so that he did not enter New Mexico. H. M.

Hon. H. Mann.

HOUSE OF REPRESENTATIVES, *June* 28, 1850.

SIR: In reply to your note of this date, I have the honor to say, that I was an officer of the First Regiment Illinois Volunteers, commanded by Colonel J. J. Hardin during the Mexican war, and that during the time Colonel Hardin was in command of the regiment, he was not in New Mexico. His nearest point to New Mexico was Monclova or Parras, which was several hundred miles distant. In my opinion, Colonel Hardin was never in New Mexico; he certainly was not in that country during the Mexican war.

Respectfully, W. A. RICHARDSON.

Now what possible excuse can be offered for these misleading citations? What information would be given of the soil of the Genesee valley of New York, by proving the condition of the sands of Cape Cod?

Mr. Webster next quotes, for the second time, the letter of Hugh N. Smith, Esq. This letter, if taken by itself, would render it improbable, in Mr. Smith's opinion, that slavery would go into New Mexico; but it by no means proves the physical impossibility of its existence there. But what different language has Mr. Smith since held in his Address to his constituents? I will quote a few passages from this Address to show its general drift and intent:

"Your State [New Mexico] is threatened with dismemberment, and, *what is yet more fatal, the introduction of slavery into its bosom*."—*Page* 1.

"The most formidable part of this combination against you is that which originates in the slave interest. It not only rallies against you the whole slaveholding South, but all the influence of selfish, venal and ambitious men in the North, looking to speculations in discredited bonds and land jobbing, *or to the political honors which the combined vote of the South may promise*."—*Page* 2.

"The doctrine of the slaveholding States, in regard to their domestic institutions, is non-intervention; but with regard to yours, it is *instant intervention*, to set at nought the prohibition of slavery, which you brought with you into the Union," &c.—*Ib.*

"I am myself a native of the section [Mr. Smith is a Kentuckian] whose fate I deplore, and if my duty did not require, I would be the last to advert to the malady that preys upon its life. * * * * The schemes of those who would bind you to the destiny of the slave States, render it necessary that your Representative should be excluded from the Halls of Congress."—*Page* 3.

"*You are left prostrate, that Texas may dismember and divide New Mexico, and subject her to Southern influence; that negro slavery may be introduced into the remnant of territory that may not be appropriated to Texas; and, finally, that the region thus secured to Southern policy may become the stock on which to graft new conquests from Mexico*."—*Page* 4. [These are Mr. Smith's italics.]

"The first step in this process is to supplant the fundamental municipal institutions brought by New Mexico with her into the Union, by a Territorial Government which, by omitting the inhibition against slavery in the Congressional act, failing to reserve that contained in the Mexican code, and preventing the people of the Territory from legislating upon the subject of slavery, and from re-enacting the prohibitory clause, will unquestionably abolish all protections against that institution; and, indeed, more effectual legislation for the extension of slavery into New Mexico could not be enacted."—*Page* 5.

"The whole body of Southern influence, now that mining is a mania, would combine to pour an immense colony of slaves into New Mexico. The consequence of this would be to level the whole population of New Mexico with the new caste brought into competition; and you, my Mexican fellow citizens, who till your own soil with your own hands, would be compelled to fly your country, or be degraded from your equality of freemen, forfeiting your hopes of rising to the new elevation promised by your alliance with the great North American Republic, and living only to witness the ruin of all that renders life desirable."—*Page* 6.

This is what Mr. Smith says, when he writes home to his own people, who know all about their own country, and its danger of being invaded by slavery.

Now, let the reader suppose himself to have read from Mr. Smith's Address, as much more, of the same kind as the above, and then say how far his evidence goes to sustain Mr. Webster's discovery, that slavery can never go into New Mexico. Mr. Smith's Address has been published for two months; it has been on the tables of members, published, and quoted from in the newspapers, and yet Mr. Webster continues to cite Mr. Smith, as a witness in his favor. What influences were used to induce Mr. Smith to withhold, in the letter to Mr. Webster, the facts and views which he has so clearly brought out in the letter to his constituents?

The next and last citation is from an officer at Santa Fe. No name is given. We are informed neither of the character of the author nor of his means of information; and if this authority is as fallacious and deceptive as the preceding, it is a great deal worse than nothing. It would be like the testimony sometimes offered in court, which ruins the cause and dishonors the counsel.

4 MR. WEBSTER'S "DILIGENT READING."

Mr. Webster says, in this letter, "I have studied the geography of New Mexico diligently, having read all that I could find in print." According to this statement, he must have read the letters of Mr. James S. Calhoun, Indian agent at Santa Fe, communicated to Congress by the President, on the 23d of January last. Speaking of the Navajoes, a tribe of 7,000 Indians, within the limits of what it is proposed to include in New 10,000 sheep, and 400 to 500 head of other stock." (P. 184) That their country "is rich in its valleys, rich in its fields of grain, and rich in its vegetables and peach orchards." (P. 199.) "We encamped," says he, "near extensive corn fields, belonging to the Navajoes." (P. 197.) Their "soil is easy of cultivation, and capable of sustaining nearly as many millions of inhabitants as they have thousands." (P. 202) A country owned by one tribe capable of sustaining nearly 7,000,000 inhabitants, and yet, as Mr. Webster avers, inaccessible to slavery, on account of its barrenness!

Speaking of the Indians, (Pueblos,) on the Rio Grande, Mr. Calhoun says: "These people can raise immense quantities of corn and wheat, and have large herds of sheep and goats. The grazing for cattle generally is superior." (P. 206) Of the more western Pueblos, he says, they have "an extent of country nearly four hundred miles square;"—more than twenty times as large as Massachusetts;—"they have rich valleys to cultivate, grow quantities of corn and wheat, and raise vast herds of horses, mules, sheep and goats, all of which may be immensely increased by properly stimulating their industry, and instructing them in the agricultural arts." (P. 215.)

I might cite much more from the same authority, to the same effect; but I do not refer to Mr. Calhoun so much for the purpose of showing the agricultural capabilities of New Mexico, as of asking why Mr. Webster did not quote from this recent official work, which has been lying on the tables of members for months, instead of quoting descriptions from military officers respecting a country which he well knew they had never seen?

There is good reason to believe that there are wide tracts of fertile land lying between the Sierra de los Mimbres and the Sierra Nevada on the east and west, and the 32d and 35th degrees of latitude. The waters at the mouth of a river give no doubtful indication respecting the country from which they flow. If the volume be large, we know it must drain an extensive region; for the waters of a great river cannot be supplied from a narrow surface. So if the water be muddy, as is said to be the case with that of the Colorado, it is proof that it courses through a diluvial country. But however this may be, all accounts concur in representing New Mexico to be rich in mines; and mines are the favorite sphere for slavery, as the ocean is for commerce.

In his late speech in the Senate, Mr. Davis of Massachusetts said that however it might be with regard to employing slaves in New Mexico for raising crops of corn or cotton, there was still one purpose to which they might be applied,—the most odious of all purposes,—to raising crops from themselves. From this "Southern Hive," the markets of Texas and Louisiana might be supplied with "vigintial" crops of human beings. It will be incumbent on Mr. Webster to invent some new "physical" law to meet this astute suggestion of his colleague. "Asiatic scenery" will hardly answer his purpose here.

Within the limits of the proposed Territory of New Mexico, it is supposed that that powerful and comparatively civilized people, the Aztecs, once resided. Can any person for a moment believe, that the Aztecs ever grew to opulence or power, in any such sterile and desolate region, as Mr. Webster's "diligent reading" portrays?

But what must satisfy every man whose blindness is not of the soul rather than of the senses, is the fact, that the people of New Mexico, in the Constitution which they have just framed, have embodied a prohibition of slavery in their fundamental law. Had slavery been forbidden there by any "Asiatic scenery" or by any "law of physical geography," who should know it better than they? They have had slavery amongst them heretofore, and therefore they know it can invade them again, and therefore they forbid it; and in the choice of Senators to Congress under the new organization, should any candidate put forward the vagary, the phantasm, the fatuity, that slavery *cannot* exist among them, they would doubtless deem him a less fit subject for the Senate of the United States, than for sanitary treatment.

How stands the evidence, then, on the question, whether "California and New Mexico," from their geology, their geography, or their Asiatic scenery, are inaccessible or not, to the invasion of slavery? It is well known that the war with Mexico was provoked, and violently precipitated upon the country, in order to extend the domain and the power of slavery. In negotiating for the cession of California and New Mexico, the Mexican Commissioners strove to introduce a prohibition against slavery into the treaty. This demonstrates that they thought slavery could exist there. Our Minister declared that he would assent to no such stipulation, though they would cover all the land a foot thick with gold. This shows the tenacity with which Mr. Polk's Administration, and all its Southern friends, adhered to their original purpose of obtaining new territory for slavery. In view of this, the House of Representatives again and again voted to apply the Proviso to whatever territory should be obtained. When the treaty was ratified, many of the leading Senators voted against the clause for acquisition, foreseeing the present controversy, and hoping to avert it. Even after the treaty was ratified, leading Southern Whigs in the House voted against paying the first instalment under it, still clinging to the hope that the territory might be restored to Mexico, and this cause of dissension withdrawn. During all this period, fourteen of the Northern Legislatures, many of them again and again, voted that the Proviso should be applied. The present six months' contest, in the Senate and House, between the North and the South, is conducted solely on the conviction that slavery *may* exist in the Territories; and that it will or will not exist there, according as the law allows or forbids it. Otherwise, it would be the most nonsensical and nugatory discussion ever engaged in out of a lunatic asylum. Once make it as clear as any law of physical nature, that slavery can never transgress the bounds of the new territories; and there is not a man so demented that he would any longer contend either for the Proviso, or against it. Mr. Webster was always of the same opinion, and has declared it a hundred times. In his Marshfield speech, September 1, 1848, he said, "He [General Cass] will surely have the Senate, and with the patronage of the Government, with every interest that he as a Northern man, can bring to bear, coöperating with every interest that the South can bring to bear, we cry safety before we are out of the woods, *if we feel that there is no danger* [of slavery] *as to these new Territories*." Up to the 7th March, 1850, then, when he abandoned all the doctrines and sentiments he had ever before advocated on this subject, and when he incurred the public, hearty approval and encomiums of Mr. Calhoun, by his moral agility, in springing, at one leap, from Massachusetts to South Carolina;—until this time, Mr. Webster had always held, that slavery would invade the new Territories, if not barred out of them by positive law. And what would be still more remarkable, if the doctrines of the 7th of March speech had the least shadow of soundness in them, is, that they have now been before the public for more than four months, and, so far as I know, not a single Southern man has been converted by them. Are not Mr. Benton, Mr. Mason, Col. Davis, and thousands of others, individually, as good judges, or as good witnesses, as he is? Since the speech, the people of New Mexico have prohibited slavery in their Constitution, because they knew it to be possible among them. Before the speech, California did the same, and for the same reason. The Nashville Convention has just resolved "That California is peculiarly adapted for slave labor, and that if the tenure of slave property was by recognition of this kind secured in that part of the country south of 36° 30′, it would in a short time form one or more slaveholding States, to swell the number and power of those already in existence." Even those who seek to apologize for Mr. Webster, avow at the same time, their disbelief in his doctrine. Such is the evidence, on the one side and on the other, as to the possibility or impossibility of slavery in the Territories. Mr. Webster is against the whole world and the whole world is against him, and this, too, on a question already settled by history and experience. He is just as much to be believed, as a man who looks up into the clear midnight sky, and denies the existence of the heavenly host, while all the stars of the firmament are shining down into his eyes.

To increase the overwhelming proof against Mr. Webster, I add the following:

HOUSE OF REPRESENTATIVES, *June* 1, 1850.

Hon. S. R. Thurston, Delegate from Oregon.

DEAR SIR: In a speech delivered by you, in the House of Representatives in March last, I understood you to say that you had been in the valley of the Great Salt Lake, and that you were acquainted, from personal observation, with a large part of the territory of California. Will you be so good as to give me your opinion, and the reasons for entertaining it, of the probability or improbability of the introduction of slave labor into any part of the territory recently acquired by the United States from Mexico; provided such introduction be not prohibited by law?

I wish to obtain your opinion in regard to other kinds of labor, as well as agricultural; because, as it seems to me, a most unwarrantable, if not a most disingenuous attempt has been made, to lead the public to believe that no form of slave labor will ever be introduced there, because, possibly, or probably, it may not be introduced for agricultural purposes.

A reply at your earliest convenience, will much oblige, Yours, very truly,

HORACE MANN.

WASHINGTON, *June* 10, 1850.

Hon Horace Mann:

I received a note from you some days ago, making certain inquiries, but which, up to this time, I have been unable to answer. I desire to take no part in the question now dividing the country; but as you have asked my judgment upon a matter which appears to be a disputed point, I cannot, consistently with the law of courtesy, refuse you an answer. That answer will be in conformity with what I have frequently said, heretofore, in private conversation with gentlemen on this subject

The point of inquiry seems to be, whether slave labor for slave labor, it appears to be conceded, on all sides, t would be introduced, if left free to seek profitable i ment, like other capital. The whole point at issue, th dependent, as it is conceived, upon the determination c first point of inquiry. Hence, to that point, only, it is r sary for me to confine my answer.

I need not remind you of the law regulating the invest of capital. It will always go where, under all circumst it will yield the greatest return to the owner. Upo principle I am very clear, that slave labor, if unrestr could be employed in Oregon, with at least double the to the owner of the slave that it now yields in any St the Union. I am uninformed as to the usual price of labor in the States, but the price paid to Indians in O during the past year, for labor, has ranged from two to dollars per day. Domestic negro servants, whether m female, who understand the business of housework, command, *readily*, five or six hundred dollars a year. ollect well, that there was a mulatto man on board the in which I took passage from Oregon to San Francisco was paid *one hundred and eighty* dollars per month f services as cook I will not stop to particularize furth regard to the inducements Oregon would offer to unrest slave labor, but will simply add, that a very large nu of slaves might now be employed in Oregon at annual sufficiently large to purchase their freedom. I think, t fore, that the point is settled so far as Oregon is conc and that slave labor, if it had been left free to seek profi employment, would readily find its way to that Territo

As to California, I am equally clear. California will a be a mining country, and wages will range high. At pr slave labor in California would be more profitable th Oregon. And I have always been of the opinion, that ever there is a mining country, if not in a climate unco lal to slave labor, that species of labor would be profi That it would be in the California mines. is evident A able-bodied slave would have commanded, in California ing the past year, from eight to ten hundred dollars p num. When it is recollected that one hundred dolla annum, upon an average is considered a good compens for their labor in the Southern States, it is idle. in my ment, to contend that slaves would not be carried to th ifornia market, if protected by law.

The greatest impediment which white labor has to en ter in the mines, is the intensity of the heat, and the p lence of bilious disease. The one is almost insuffe while the other is pestilential. Against both of thes negro is almost proof. Now, while white labor is so hi is evident that no one can hire a white laborer, excep rate that would consume his profit. Not so with negro That species of labor might be obtained for half the a which you would have to pay for white labor. The would be a profit alike to the hirer and seller of slave There is no doubt, in my judgment, that almost any nu of slaves might be hired out in California, were the willing to allow it, at from eight to ten hundred dol year. This is pay so much above what their services mand in the States, as to satisfy any one, that coul species of service be protected in California, it would to the Pacific in almost any quantity

Let us next turn our attention to Utah and New M I have no doubt, from what knowledge I have of those tries, that they will turn out to be filled with the ri mines. I clip the following from a recent paper, conta the news from Texas and Chihuahua.

"Mr. James was informed, by Major Neighbours an Lee Vining, that they had been shown by Major Stein, gold washed out by his troops, on the Gila river, in a excursion to that stream.

"It is reported that, at the copper mines above El there are about one hundred tons of pure copper lying the ground. This had been got out by Mexicans, and doned when attacked by Indians.

"There are are at El Paso, in the hands of differen sons, several large amounts of silver ore, taken fro mines in that neighborhood. With guaranties of ti lands, and protection from Indians, only a short time elapse before all these mines would be well worked, a would have large quantities of metal seeking a n through this place."

And if you consult Fremont's map, printed by order Senate in 1848, you will find, near the source of one branches of the Gila river, "copper and gold mines down. And if I am not greatly mistaken, it will tu that the Mormons are in possession of the richest k mines, east of the Sierra Nevada. It is known, too, th ver and copper mines have, for many years, been wo New Mexico; and I am informed by Hugh N. Smith that there are in that Territory, gold, silver, copper and zinc mines of the richest quality, and that the why they have not latterly been worked more extensi that it is prevented by the incursions of the Indians. of the opinion, and he is borne out by what history get on the subject, that when these mines shall come explored, their wealth will turn out to be enormous you have once cast your eye over that country lying the Rocky Mountains, and east of the Sierra Nevad are informed of the peculiarity of the gold-bearing r you at once become convinced that the United States possession of mineral wealth so vast, that ages will able to measure its extent. And when these mines sh gin to be developed, and their unquestionable ric known, population will set that way, attended with the consequences, high prices, and a demand for labor. If labor is like other capital, if it will go where it is best then we have a right to say it will seek these mines, a come a part of the producing capital of the country those mines are located. That these whole regions are with rich mines, is little less than certain, and that the be profitably worked by slave labor is sure. Hence, w Southern man, and my property invested in slaves, I s consider the markets of New Mexico, Utah, and Calif for slave labor, worthy of an honorable contest to secu

I am, sir, with due consideration, yours, truly,

SAMUEL R. THURST

5. CONTRADICTION IN MR. WEBSTER'S SPEECHES.

The Kennebec letter has another most e ordinary and discreditable passage. It is the close. Mr. Webster quotes from a sp delivered by him in the Senate, March 23, says it was published in newspapers and c lated in pamphlet form, and that that speech tained the same doctrines in regard to the " construction and effect of the resolutions" fo mitting Texas, as are contained in the speec the 7th of March. He says nobody comp ed then, and he wonders that anybody sh complain now.

It is very remarkable that such a man as Webster should furnish, in the very quot which he offers, the means of utterly conf the assertion which he makes. I suppose thi be accounted for only on the ground, that he occupies a position so antagonistic to that w he has abandoned that he can hardly refer t former views without self-impeachment and conviction. Let passages from the two spee be placed side by side, to show, not their ide but their utter irreconcilability.

MARCH 23, 1848.
[*A passage quoted by himself.*]
"It shall be *in the power* of Congress hereafter to make *four* other new States out of Texan territory."

MARCH 7, 1850.
"I wish it to be dist understood, to-day, th cording to my view matter, this Governm *solemnly pledged by la contract* to create new out of Texas," &c.—P

The first quotation only asserts a "power Congress to create new States; the last affirm obligation, "by law and contract" to do so. could Mr. Webster have expected that this l distinction between *power* and *duty*, betwee *tion* and *obligation*, could escape the attenti his readers?

But there is another discrepancy or contr tion still more remarkable:

MARCH 23, 1848.
"It shall be in the power of Congress hereafter to make *four* other new States out of Texan territory."

MARCH 7, 1850
"——— the guara that new States sh made out of it, and th States as are formed that portion of Texa south of 36 deg. 30 mi come in as slave St the number of *four*, i tion to the State then istence."—P. 29.

The first speech speaks of the *power* of gress, but the last of the *obligation* of Cong to admit new States out of Texan territory first speaks of "four other new States;" bu last of the "guaranty" to admit "*slave* S to the number of four." Yet the first spec cited, to men who can read and write, as ide "in legal construction and effect" with the The motto under which Danton attempte carry himself through his bloody career, "*L'audace, l'audace, toujours l'audace.*"—"Aud audacity, always audacity."

But what else did Mr. Webster say, i speech of the 23d of March, 1848? Referri the debate which took place in December, on the final act for admitting Texas, Mr. ster said: "And I added, that while I held, as much faithfulness as any citizen of the try, to all the original arrangements and co mises of the Constitution under which live, I never could, and I never should, myself to be in favor of the admission o States into the Union as slaveholding Stat This is what Mr. Webster reports hims have said when the final vote on the admissi Texas was immediately to be taken, and whe commenced his speech by saying, "I am aware, Mr. President, that the resolution pass,"—meaning the resolution for the admi of Texas. Mr. Webster's "never could never should" covered the exact case of the contemplated future slaveholding States formed out of Texas. While in the broadne its terms it embraced all slaveholding S whensoever, or whencesoever they might co had special and pointed application to any State to be thereafter formed out of Texa ritory.

In the same speech of December 22, 1845 Webster spoke as follows:

"It may be said that according to the provisions Constitution, new States are to be admitted on th footing as the old States. It may be so; but it does low at all from that provision that every territory tion of country may at pleasure establish slavery, an say we will become a portion of the Union; and will with us the principles which we may have thus adopt must be received on the same footing as the old Stat will always be a question whether the old States hav right, (and I think they have the clearest right,) to r that the State coming into the Union should come i an equality; and, if the existence of slavery be an i ment to coming in on an equality, then the State pro to come in should be required to remove that ine by abolishing slavery, or take the alternative of bei cluded."

He also said, in the same speech, "I agree the unanimous opinion of the Legislatu Massachusetts."

And what was this "unanimous opinion o Legislature of Massachusetts"? Among other things equally decisive, the Massach Legislature, on the 26th of March, 1845,—a course, long after the annexation resolution been passed,—declared as follows:

"And whereas the consent of the Executive and tive departments of the Government of the United has been given, by a resolution passed on the 27th ruary last, to the adoption of preliminary measure complish this nefarious project, [the admission of with the stipulation to admit four more States ou territory;] therefore, be it

"*Resolved*, That Massachusetts hereby refuses knowledge the act of the Government of the United authorizing the admission of Texas, as a legal act way binding her from using her utmost exertion operation with other States, by every lawful and c tional measure, to annul its conditions, and defeat complishment.

"*Resolved*, That no Territory hereafter applyin admitted to the Union, as a State, should be admitt out a condition that domestic slavery should be ut tinguished within its borders, and Massachusett the validity of any compromise whatsoever, that m